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No. 837

In the Supreme Court of the United States

OCTOBER TERM, 1936

CHAS. C. STEWARD MACHINE COMPANY, PETITIONER

v.

HARWELL G. DAVIS, INDIVIDUALLY AND AS COLLECTOR OF INTERNAL REVENUE FOR THE DISTRICT OF ALABAMA, RESPONDENT

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE FIFTH CIRCUIT

APPENDIX TO THE BRIEF FOR THE RESPONDENT

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APPENDIX A

THE SOCIAL SECURITY ACT (ACT OF AUGUST 14, 1935, c. 531, 49 STAT. 620, U. S. C., SUPP. II, TITLE 42, C. 7)

[H. R. 7260]

AN ACT To provide for the general welfare by establishing a system of Federal old-age benefits, and by enabling the several States to make more adequate provision for aged persons, blind persons, dependent and crippled children, maternal and child welfare, public health, and the administration of their unemployment compensation laws; to establish a Social Security Board; to raise revenue; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—GRANTS TO STATES FOR OLD-AGE ASSISTANCE

APPROPRIATION

SECTION 1. For the purpose of enabling each State to furnish financial assistance, as far as practicable under the conditions in such State, to aged needy individuals, there is hereby authorized to be appropriated for the fiscal year ended June 30, 1936, the sum of $49,750,000, and there is hereby authorized to be appropriated for each fiscal year thereafter a sum sufficient to carry out the purposes of this title. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by

the Social Security Board established by Title VII (hereinafter referred to as the "Board"), State plans for old-age assistance.

STATE OLD-AGE ASSISTANCE PLANS

SEC. 2. (a) A State plan for old-age assistance must (1) provide that it shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them; (2) provide for financial participation by the State; (3) either provide for the establishment or designation of a single State agency to administer the plan, or provide for the establishment or designation of a single State agency to supervise the administration of the plan; (4) provide for granting to any individual, whose claim for old-age assistance is denied, an opportunity for a fair hearing before such State agency; (5) provide such methods of administration (other than those relating to selection, tenure of office, and compensation of personnel) as are found by the Board to be necessary for the efficient operation of the plan; (6) provide that the State agency will make such reports, in such form and containing such information, as the Board may from time to time require, and comply with such provisions as the Board may from time to time find necessary to assure the correctness and verification of such reports; and (7) provide that, if the State or any of its political subdivisions collects from the estate of any recipient of old-age assistance any amount with respect to old-age assistance furnished him under the plan, one-half of the net amount so collected shall be promptly paid to the United States. Any pay-

ment so made shall be deposited in the Treasury to the credit of the appropriation for the purposes of this title.

(b) The Board shall approve any plan which fulfills the conditions specified in subsection (a), except that it shall not approve any plan which imposes, as a condition of eligibility for old-age assistance under the plan—

(1) An age requirement of more than sixty-five years, except that the plan may impose, effective until January 1, 1940, an age requirement of as much as seventy years; or

(2) Any residence requirement which excludes any resident of the State who has resided therein five years during the nine years immediately preceding the application for old-age assistance and has resided therein continuously for one year immediately preceding the application; or

(3) Any citizenship requirement which excludes any citizen of the United States.

PAYMENT TO STATES

SEC. 3. (a) From the sums appropriated therefor, the Secretary of the Treasury shall pay to each State which has an approved plan for old-age assistance, for each quarter, beginning with the quarter commencing July 1, 1935, (1) an amount, which shall be used exclusively as old-age assistance, equal to one-half of the total of the sums expended during such quarter as old-age assistance under the State plan with respect to each individual who at the time of such expenditure is sixty-five years of age or older and is not an in-

mate of a public institution, not counting so much of such expenditure with respect to any individual for any month as exceeds $30, and (2) 5 per centum of such amount, which shall be used for paying the costs of administering the State plan or for old-age assistance, or both, and for no other purpose: *Provided,* That the State plan, in order to be approved by the Board, need not provide for financial participation before July 1, 1937, by the State, in the case of any State which the Board, upon application by the State and after reasonable notice and opportunity for hearing to the State, finds is prevented by its constitution from providing such financial participation.

(b) The method of computing and paying such amounts shall be as follows:

(1) The Board shall, prior to the beginning of each quarter, estimate the amount to be paid to the State for such quarter under the provisions of clause (1) of subsection (a), such estimate to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such clause, and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than one-half of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, (B) records showing the number of aged individuals in the State, and (C) such other investigation as the Board may find necessary.

(2) The Board shall then certify to the Secretary of the Treasury the amount so estimated by the Board, reduced or increased, as the case may be, by any sum by which it finds that its estimate for any prior quarter was greater or less than the amount which should have been paid to the State under clause (1) of subsection (a) for such quarter, except to the extent that such sum has been applied to make the amount certified for any prior quarter greater or less than the amount estimated by the Board for such prior quarter.

(3) The Secretary of the Treasury shall thereupon, through the Division of Disbursement of the Treasury Department and prior to audit or settlement by the General Accounting Office, pay to the State, at the time or times fixed by the Board, the amount so certified, increased by 5 per centum.

OPERATION OF STATE PLANS

SEC. 4. In the case of any State plan for old-age assistance which has been approved by the Board, if the Board, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of such plan, finds—

(1) that the plan has been so changed as to impose any age, residence, or citizenship requirement prohibited by section 2 (b), or that in the administration of the plan any such prohibited requirement is imposed, with the knowledge of such State agency, in a substantial number of cases; or

(2) that in the administration of the plan there is a failure to comply substantially with any provision required by section 2 (a) to be included in the plan;

the Board shall notify such State agency that further payments will not be made to the State until the Board is satisfied that such prohibited requirement is no longer so imposed, and that there is no longer any such failure to comply. Until it is so satisfied it shall make no further certification to the Secretary of the Treasury with respect to such State.

ADMINISTRATION

SEC. 5. There is hereby authorized to be appropriated for the fiscal year ending June 30, 1936, the sum of $250,000, for all necessary expenses of the Board in administering the provisions of this title.

DEFINITION

SEC. 6. When used in this title the term "old-age assistance" means money payments to aged individuals.

TITLE II—FEDERAL OLD-AGE BENEFITS

OLD-AGE RESERVE ACCOUNT

SECTION 201. (a) There is hereby created an account in the Treasury of the United States to be known as the "Old-Age Reserve Account" hereinafter in this title called the "Account." There is hereby authorized to be appropriated to the Account for each fiscal year, beginning with the fiscal year ending June 30, 1937, an amount sufficient as an annual premium to provide for the payments

required under this title, such amount to be determined on a reserve basis in accordance with accepted actuarial principles, and based upon such tables of mortality as the Secretary of the Treasury shall from time to time adopt, and upon an interest rate of 3 per centum per annum compounded annually. The Secretary of the Treasury shall submit annually to the Bureau of the Budget an estimate of the appropriations to be made to the Account.

(b) It shall be the duty of the Secretary of the Treasury to invest such portion of the amounts credited to the Account as is not, in his judgment, required to meet current withdrawals. Such investment may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose such obligations may be acquired (1) on original issue at par, or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are hereby extended to authorize the issuance at par of special obligations exclusively to the Account. Such special obligations shall bear interest at the rate of 3 per centum per annum. Obligations other than such special obligations may be acquired for the Account only on such terms as to provide an investment yield of not less than 3 per centum per annum.

(c) Any obligations acquired by the Account (except special obligations issued exclusively to the Account) may be sold at the market price, and

such special obligations may be redeemed at par plus accrued interest.

(d) The interest on, and the proceeds from the sale or redemption of, any obligations held in the Account shall be credited to and form a part of the Account.

(e) All amounts credited to the Account shall be available for making payments required under this title.

(f) The Secretary of the Treasury shall include in his annual report the actuarial status of the Account.

OLD-AGE BENEFIT PAYMENTS

SEC. 202. (a) Every qualified individual (as defined in section 210) shall be entitled to receive, with respect to the period beginning on the date he attains the age of sixty-five, or on January 1, 1942, whichever is the later, and ending on the date of his death, an old-age benefit (payable as nearly as practicable in equal monthly installments) as follows:

(1) If the total wages (as defined in section 210) determined by the Board to have been paid to him, with respect to employment (as defined in section 210) after December 31, 1936, and before he attained the age of sixty-five, were not more than $3,000, the old-age benefit shall be at a monthly rate of one-half of 1 per centum of such total wages;

(2) If such total wages were more than $3,000, the old-age benefit shall be at a monthly rate equal to the sum of the following:

(A) One-half of 1 per centum of $3,000; plus

(B) One-twelfth of 1 per centum of the amount by which such total wages exceeded $3,000 and did not exceed $45,000; plus

(C) One-twenty-fourth of 1 per centum of the amount by which such total wages exceeded $45,000.

(b) In no case shall the monthly rate computed under subsection (a) exceed $85.

(c) If the Board finds at any time that more or less than the correct amount has theretofore been paid to any individual under this section, then, under regulations made by the Board, proper adjustments shall be made in connection with subsequent payments under this section to the same individual.

(d) Whenever the Board finds that any qualified individual has received wages with respect to regular employment after he attained the age of sixty-five, the old-age benefit payable to such individual shall be reduced, for each calendar month in any part of which such regular employment occurred, by an amount equal to one month's benefit. Such reduction shall be made, under regulations prescribed by the Board, by deductions from one or more payments of old-age benefit to such individual.

PAYMENTS UPON DEATH

SEC. 203. (a) If any individual dies before attaining the age of sixty-five, there shall be paid to his estate an amount equal to 3½ per centum of the total wages determined by the Board to have been paid to him, with respect to employment after December 31, 1936.

(b) If the Board finds that the correct amount of the old-age benefit payable to a qualified individual during his life under section 202 was less than 3½ per centum of the total wages by which such old-age benefit was measurable, then there shall be paid to his estate a sum equal to the amount, if any, by which such 3½ per centum exceeds the amount (whether more or less than the correct amount) paid to him during his life as old-age benefit.

(c) If the Board finds that the total amount paid to a qualified individual under an old-age benefit during his life was less than the correct amount to which he was entitled under section 202, and that the correct amount of such old-age benefit was 3½ per centum or more of the total wages by which such old-age benefit was measurable, then there shall be paid to his estate a sum equal to the amount, if any, by which the correct amount of the old-age benefit exceeds the amount which was so paid to him during his life.

PAYMENTS TO AGED INDIVIDUALS NOT QUALIFIED FOR BENEFITS

SEC. 204. (a) There shall be paid in a lump sum to any individual who, upon attaining the age of sixty-five, is not a qualified individual, an amount equal to 3½ per centum of the total wages determined by the Board to have been paid to him, with respect to employment after December 31, 1936, and before he attained the age of sixty-five.

(b) After any individual becomes entitled to any payment under subsection (a), no other payment shall be made under this title in any manner measured by wages paid to him, except that any part

of any payment under subsection (a) which is not paid to him before his death shall be paid to his estate.

AMOUNTS OF $500 OR LESS PAYABLE TO ESTATES

SEC. 205. If any amount payable to an estate under section 203 or 204 is $500 or less, such amount may, under regulations prescribed by the Board, be paid to the persons found by the Board to be entitled thereto under the law of the State in which the deceased was domiciled, without the necessity of compliance with the requirements of law with respect to the administration of such estate.

OVERPAYMENTS DURING LIFE

SEC. 206. If the Board finds that the total amount paid to a qualified individual under an old-age benefit during his life was more than the correct amount to which he was entitled under section 202, and was 3½ per centum or more of the total wages by which such old-age benefit was measurable, then upon his death there shall be repaid to the United States by his estate the amount, if any, by which such total amount paid to him during his life exceeds whichever of the following is the greater: (1) Such 3½ per centum, or (2) the correct amount to which he was entitled under section 202.

METHOD OF MAKING PAYMENTS

SEC. 207. The Board shall from time to time certify to the Secretary of the Treasury the name and address of each person entitled to receive a payment under this title, the amount of such pay-

ment, and the time at which it should be made, and the Secretary of the Treasury through the Division of Disbursement of the Treasury Department,and prior to audit or settlement by the General Acounting Office, shall make payment in acordance with the certification by the Board.

ASSIGNMENT

SEC. 208. The right of any person to any future payment under this title shall not be transferable or assignable, at law or in equity, and none of the moneys paid or payable or rights existing under this title shall be subject to execution, levy, attachment, garnishment, or other legal process, or to the operation of any bankruptcy or insolvency law.

PENALTIES

SEC. 209. Whoever in any application for any payment under this title makes any false statement as to any material fact, knowing such statement to be false, shall be fined not more than $1,000 or imprisoned for not more than one year, or both.

DEFINITIONS

SEC. 210. When used in this title—

(a) The term "wages" means all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash; except that such term shall not include that part of the remuneration which, after remuneration equal to $3,000 has been paid to an individual by an employer with respect to employment during any calendar year, is paid to such individual by such

employer with respect to employment during such calendar year.

(b) The term "employment" means any service, of whatever nature, performed within the United States by an employee for his employer, except—

(1) Agricultural labor;

(2) Domestic service in a private home;

(3) Casual labor not in the course of the employer's trade or business;

(4) Service performed as an officer or member of the crew of a vessel documented under the laws of the United States or of any foreign country;

(5) Service performed in the employ of the United States Government or of an instrumentality of the United States;

(6) Service performed in the employ of a State, a political subdivision thereof, or an instrumentality of one or more States or political subdivisions;

(7) Service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(c) The term "qualified individual" means any individual with respect to whom it appears to the satisfaction of the Board that—

(1) He is at least sixty-five years of age; and

(2) The total amount of wages paid to him, with respect to employment after December

31, 1936, and before he attained the age of sixty-five, was not less than $2,000; and

(3) Wages were paid to him, with respect to employment on some five days after December 31, 1936, and before he attained the age of sixty-five, each day being in a different calendar year.

TITLE III—GRANTS TO STATES FOR UNEMPLOYMENT COMPENSATION ADMINISTRATION

APPROPRIATION

SECTION 301. For the purpose of assisting the States in the administration of their unemployment compensation laws, there is hereby authorized to be appropriated, for the fiscal year ending June 30, 1936, the sum of $4,000,000, and for each fiscal year thereafter the sum of $49,000,000, to be used as hereinafter provided.

PAYMENTS TO STATES

SEC. 302. (a) The Board shall from time to time certify to the Secretary of the Treasury for payment to each State which has an unemployment compensation law approved by the Board under Title IX, such amounts as the Board determines to be necessary for the proper administration of such law during the fiscal year in which such payment is to be made. The Board's determination shall be based on (1) the population of the State; (2) an estimate of the number of persons covered by the State law and of the cost of proper administration of such law; and (3) such other factors as the Board finds relevant. The Board shall not cer-

tify for payment under this section in any fiscal year a total amount in excess of the amount appropriated therefor for such fiscal year.

(b) Out of the sums appropriated therefor, the Secretary of the Treasury shall, upon receiving a certification under subsection (a), pay, through the Division of Disbursement of the Treasury Department and prior to audit or settlement by the General Accounting Office, to the State agency charged with the administration of such law the amount so certified.

PROVISIONS OF STATE LAWS

SEC. 303. (a) The Board shall make no certification for payment to any State unless it finds that the law of such State, approved by the Board under Title IX, includes provisions for—

(1) Such methods of administration (other than those relating to selection, tenure of office, and compensation of personnel) as are found by the Board to be reasonably calculated to insure full payment of unemployment compensation when due; and

(2) Payment of unemployment compensation solely through public employment offices in the State or such other agencies as the Board may approve; and

(3) Opportunity for a fair hearing, before an impartial tribunal, for all individuals whose claims for unemployment compensation are denied; and

(4) The payment of all money received in the unemployment fund of such State, immediately upon such receipt, to the Secretary of the Treasury to the credit of the Unemploy-

ment Trust Fund established by section 904; and

(5) Expenditure of all money requisitioned by the State agency from the Unemployment Trust Fund, in the payment of unemployment compensation, exclusive of expenses of administration; and

(6) The making of such reports, in such form and containing such information, as the Board may from time to time require, and compliance with such provisions as the Board may from time to time find necessary to assure the correctness and verification of such reports; and

(7) Making available upon request to any agency of the United States charged with the administration of public works or assistance through public employment, the name, address, ordinary occupation, and employment status of each recipient of unemployment compensation, and a statement of such recipient's rights to further compensation under such law.

(b) Whenever the Board, after reasonable notice and opportunity for hearing to the State agency charged with the administration of the State law, finds that in the administration of the law there is—

(1) a denial, in a substantial number of cases, of unemployment compensation to individuals entitled thereto under such law; or

(2) a failure to comply substantially with any provision specified in subsection (a);

the Board shall notify such State agency that further payments will not be made to the State until the Board is satisfied that there is no longer any such denial or failure to comply. Until it is so satisfied it shall make no further certification to the Secretary of the Treasury with respect to such State.

TITLE IV—GRANTS TO STATES FOR AID TO DEPENDENT CHILDREN

APPROPRIATION

SECTION 401. For the purpose of enabling each State to furnish financial assistance, as far as practicable under the conditions in such State, to needy dependent children, there is hereby authorized to be appropriated for the fiscal year ending June 30, 1936, the sum of $24,750,000, and there is hereby authorized to be appropriated for each fiscal year thereafter a sum sufficient to carry out the purposes of this title. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Board, State plans for aid to dependent children.

STATE PLANS FOR AID TO DEPENDENT CHILDREN

SEC. 402. (a) A State plan for aid to dependent children must (1) provide that it shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them; (2) provide for financial participation by the State; (3) either provide for the establishment or designation of a single State agency to administer the plan, or provide for the establishment or

designation of a single State agency to supervise the administration of the plan; (4) provide for granting to any individual, whose claim with respect to aid to a dependent child is denied, an opportunity for a fair hearing before such State agency; (5) provide such methods of administration (other than those relating to selection, tenure of office, and compensation of personnel) as are found by the Board to be necessary for the efficient operation of the plan; and (6) provide that the State agency will make such reports, in such form and containing such information, as the Board may from time to time require, and comply with such provisions as the Board may from time to time find necessary to assure the correctness and verification of such reports.

(b) The Board shall approve any plan which fulfills the conditions specified in subsection (a), except that it shall not approve any plan which imposes as a condition of eligibility for aid to dependent children, a residence requirement which denies aid with respect to any child residing in the State (1) who has resided in the State for one year immediately preceding the application for such aid, or (2) who was born within the State within one year immediately preceding the application, if its mother has resided in the State for one year immediately preceding the birth.

PAYMENT TO STATES

SEC. 403. (a) From the sums appropriated therefor, the Secretary of the Treasury shall pay to each State which has an approved plan for aid to dependent children, for each quarter, beginning with the quarter commencing July 1, 1935, an amount,

which shall be used exclusively for carrying out the State plan, equal to one-third of the total of the sums expended during such quarter under such plan, not counting so much of such expenditure with respect to any dependent child for any month as exceeds $18, or if there is more than one dependent child in the same home, as exceeds $18 for any month with respect to one such dependent child and $12 for such month with respect to each of the other dependent children.

(b) The method of computing and paying such amounts shall be as follows:

(1) The Board shall, prior to the beginning of each quarter, estimate the amount to be paid to the State for such quarter under the provisions of subsection (a), such estimate to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsection and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than two-third of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, (B) records showing the number of dependent children in the State, and (C) such other investigation as the Board may find necessary.

(2) The Board shall then certify to the Secretary of the Treasury the amount so estimated by the Board, reduced or increased, as the case may be, by any sum by which it

finds that its estimate for any prior quarter was greater or less than the amount which should have been paid to the State for such quarter, except to the extent that such sum has been applied to make the amount certified for any prior quarter greater or less than the amount estimated by the Board for such prior quarter.

(3) The Secretary of the Treasury shall thereupon, through the Division of Disbursement of the Treasury Department and prior to audit or settlement by the General Accounting Office, pay to the State, at the time or times fixed by the Board, the amount so certified.

OPERATION OF STATE PLANS

SEC. 404. In the case of any State plan for aid to dependent children which has been approved by the Board, if the Board, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of such plan, finds—

(1) that the plan has been so changed as to impose any residence requirement prohibited by section 402 (b), or that in the administration of the plan any such prohibited requirement is imposed, with the knowledge of such State agency, in a substantial number of cases; or

(2) that in the administration of the plan there is a failure to comply substantially with any provision required by section 402 (a) to be included in the plan;

the Board shall notify such State agency that further payments will not be made to the State until the Board is satisfied that such prohibited requirement is no longer so imposed, and that there is no longer any such failure to comply. Until it is so satisfied it shall make no further certification to the Secretary of the Treasury with respect to such State.

ADMINISTRATION

SEC. 405. There is hereby authorized to be appropriated for the fiscal year ending June 30, 1936, the sum of $250,000 for all necessary expenses of the Board in administering the provisions of this title.

DEFINITIONS

SEC. 406. When used in this title—

(a) The term "dependent child" means a child under the age of sixteen who has been deprived of parental support or care by reason of the death, continued absence from the home, or physical or mental incapacity of a parent, and who is living with his father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, or aunt, in a place of residence maintained by one or more of such relatives as his or their own home;

(b) The term "aid to dependent children" means money payments with respect to a dependent child or dependent children.

TITLE V—GRANTS TO STATES FOR MATERNAL AND CHILD WELFARE

PART 1—MATERNAL AND CHILD HEALTH SERVICES

APPROPRIATION

SECTION 501. For the purpose of enabling each State to extend and improve, as far as practicable under the conditions in such State, services for promoting the health of mothers and children, especially in rural areas and in areas suffering from severe economic distress, there is hereby authorized to be appropriated for each fiscal year, beginning with the fiscal year ending June 30, 1936, the sum of $3,800,000. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Chief of the Children's Bureau, State plans for such services.

ALLOTMENTS TO STATES

SEC. 502. (a) Out of the sums appropriated pursuant to section 501 for each fiscal year the Secretary of Labor shall allot to each State $20,000, and such part of $1,800,000 as he finds that the number of live births in such State bore to the total number of live births in the United States, in the latest calendar year for which the Bureau of the Census has available statistics.

(b) Out of the sums appropriated pursuant to section 501 for each fiscal year the Secretary of Labor shall allot to the States $980,000 (in addition to the allotments made under subsection (a)), according to the financial need of each State for assistance in carrying out its State plan, as deter-

mined by him after taking into consideration the number of live births in such State.

(c) The amount of any allotment to a State under subsection (a) for any fiscal year remaining unpaid to such State at the end of such fiscal year shall be available for payment to such State under section 504 until the end of the second succeeding fiscal year. No payment to a State under section 504 shall be made out of its allotment for any fiscal year until its allotment for the preceding fiscal year has been exhausted or has ceased to be available.

APPROVAL OF STATE PLANS

SEC. 503. (a) A State plan for maternal and child-health services must (1) provide for financial participation by the State; (2) provide for the administration of the plan by the State health agency or the supervision of the administration of the plan by the State health agency; (3) provide such methods of administration (other than those relating to selection, tenure of office, and compensation of personnel) as are necessary for the efficient operation of the plans; (4) provide that the State health agency will make such reports, in such form and containing such information, as the Secretary of Labor may from time to time require, and comply with such provisions as he may from time to time find necessary to assure the correctness and verification of such reports; (5) provide for the extension and improvement of local maternal and child-health services administered by local child-health units; (6) provide for cooperation with medical, nursing, and welfare groups and organizations; and (7) provide for the development of

demonstration services in needy areas and among groups in special need.

(b) The Chief of the Children's Bureau shall approve any plan which fulfills the conditions specified in subsection (a) and shall thereupon notify the Secretary of Labor and the State health agency of his approval.

PAYMENT TO STATES

SEC. 504. (a) From the sums appropriated therefor and the allotments available under section 502 (a), the Secretary of the Treasury shall pay to each State which has an approved plan for maternal and child-health services, for each quarter, beginning with the quarter commencing July 1, 1935, an amount, which shall be used exclusively for carrying out the State plan, equal to one-half of the total sum expended during such quarter for carrying out such plan.

(b) The method of computing and paying such amounts shall be as follows:

(1) The Secretary of Labor shall, prior to the beginning of each quarter, estimate the amount to be paid to the State for such quarter under the provisions of subsection (a), such estimate to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsection and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than one-half of the total sum of such estimated expenditures,

the source or sources from which the difference is expected to be derived, and (B) such investigation as he may find necessary.

(2) The Secretary of Labor shall then certify the amount so estimated by him to the Secretary of the Treasury, reduced or increased, as the case may be, by any sum by which the Secretary of Labor finds that his estimate for any prior quarter was greater or less than the amount which should have been paid to the State for such quarter, except to the extent that such sum has been applied to make the amount certified for any prior quarter greater or less than the amount estimated by the Secretary of Labor for such prior quarter.

(3) The Secretary of the Treasury shall thereupon, through the Division of Disbursement of the Treasury Department and prior to audit or settlement by the General Accounting Office, pay to the State, at the time or times fixed by the Secretary of Labor, the amount so certified.

(c) The Secretary of Labor shall from time to time certify to the Secretary of the Treasury the amounts to be paid to the States from the allotments available under section 502 (b), and the Secretary of the Treasury shall, through the Division of Disbursement of the Treasury Department and prior to audit or settlement by the General Accounting Office, make payments of such amounts from such allotments at the time or times specified by the Secretary of Labor.

OPERATION OF STATE PLANS

SEC. 505. In the case of any State plan for maternal and child-health services which has been approved by the Chief of the Children's Bureau, if the Secretary of Labor, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of such plan, finds that in the administration of the plan there is a failure to comply substantially with any provision required by section 503 to be included in the plan, he shall notify such State agency that further payments will not be made to the State until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied he shall make no further certification to the Secretary of the Treasury with respect to such State.

PART 2—SERVICES FOR CRIPPLED CHILDREN

APPROPRIATION

SEC. 511. For the purpose of enabling each State to extend and improve (especially in rural areas and in areas suffering from severe economic distress), as far as practicable under the conditions in such State, services for locating crippled children, and for providing medical, surgical, corrective, and other services and care, and facilities for diagnosis, hospitalization, and aftercare, for children who are crippled or who are suffering from conditions which lead to crippling, there is hereby authorized to be appropriated for each fiscal year, beginning with the fiscal year ending June 30, 1936, the sum of $2,850,000. The sums made available

under this section shall be used for making payments to States which have submitted, and had approved by the Chief of the Children's Bureau, State plans for such services.

ALLOTMENTS TO STATES

SEC. 512. (a) Out of the sums appropriated pursuant to section 511 for each fiscal year the Secretary of Labor shall allot to each State $20,000, and the remainder to the States according to the need of each State as determined by him after taking into consideration the number of crippled children in such State in need of the services referred to in section 511 and the cost of furnishing such services to them.

(b) The amount of any allotment to a State under subsection (a) for any fiscal year remaining unpaid to such State at the end of such fiscal year shall be available for payment to such State under section 514 until the end of the second succeeding fiscal year. No payment to a State under section 514 shall be made out of its allotment for any fiscal year until its allotment for the preceding fiscal year has been exhausted or has ceased to be available.

APPROVAL OF STATE PLANS

SEC. 513. (a) A State plan for services for crippled children must (1) provide for financial participation by the State; (2) provide for the administration of the plan by a State agency or the supervision of the administration of the plan by a State agency; (3) provide such methods of administration (other than those relating to selection,

tenure of office, and compensation of personnel) as are necessary for the efficient operation of the plan; (4) provide that the State agency will make such reports, in such form and containing such information, as the Secretary of Labor may from time to time require, and comply with such provisions as he may from time to time find necessary to assure the correctness and verification of such reports; (5) provide for carrying out the purposes specified in section 511; and (6) provide for cooperation with medical, health, nursing, and welfare groups and organizations and with any agency in such State charged with administering State laws providing for vocational rehabilitation of physically handicapped children.

(b) The Chief of the Children's Bureau shall approve any plan which fulfills the conditions specified in subsection (a) and shall thereupon notify the Secretary of Labor and the State agency of his approval.

PAYMENT TO STATES

SEC. 514. (a) From the sums appropriated therefor and the allotments available under section 512, the Secretary of the Treasury shall pay to each State which has an approved plan for services for crippled children, for each quarter, beginning with the quarter commencing July 1, 1935, an amount, which shall be used exclusively for carrying out the State plan, equal to one-half of the total sum expended during such quarter for carrying out such plan.

(b) The method of computing and paying such amounts shall be as follows:

(1) The Secretary of Labor shall, prior to the beginning of each quarter, estimate the amount to be paid to the State for such quarter under the provisions of subsection (a), such estimate to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsection and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than one-half of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, and (B) such investigation as he may find necessary.

(2) The Secretary of Labor shall then certify the amount so estimated by him to the Secretary of the Treasury, reduced or increased, as the case may be, by any sum by which the Secretary of Labor finds that his estimate for any prior quarter was greater or less than the amount which should have been paid to the State for such quarter, except to the extent that such sum has been applied to make the amount certified for any prior quarter greater or less than the amount estimated by the Secretary of Labor for such prior quarter.

(3) The Secretary of the Treasury shall thereupon, through the Division of Disbursement of the Treasury Department and prior to audit or settlement by the General Accounting Office, pay to the State, at the time or times fixed by the Secretary of Labor, the amount so certified.

OPERATION OF STATE PLANS

SEC. 515. In the case of any State plan for services for crippled children which has been approved by the Chief of the Children's Bureau, if the Secretary of Labor, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of such plan, finds that in the administration of the plan there is a failure to comply substantially with any provision required by section 513 to be included in the plan, he shall notify such State agency that further payments will not be made to the State until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied he shall make no further certification to the Secretary of the Treasury with respect to such State.

PART 3—CHILD-WELFARE SERVICES

SEC. 521. (a) For the purpose of enabling the United States, through the Children's Bureau, to cooperate with State public-welfare agencies in establishing, extending, and strengthening, especially in predominantly rural areas, public-welfare services (hereinafter in this section referred to as "child-welfare services") for the protection and care of homeless, dependent, and neglected children, and children in danger of becoming delinquent, there is hereby authorized to be appropriated for each fiscal year, begininng with the fiscal year ending June 30, 1936, the sum of $1,500,000. Such amount shall be allotted by the Secretary of Labor for use by cooperating State public-welfare agencies on the basis of plans developed jointly by the State agency and the Children's Bureau, to

each State, $10,000, and the remainder to each State on the basis of such plants, not to exceed such part of the remainder as the rural population of such State bears to the total rural population of the United States. The amount so allotted shall be expended for payment of part of the cost of district, county or other local child-welfare services in areas predominantly rural, and for developing State services for the encouragement and assistance of adequate methods of community child-welfare organization in areas predominantly rural and other areas of special need. The amount of any allotment to a State under this section for any fiscal year remaining unpaid to such State at the end of such fiscal year shall be available for payment to such State under this section until the end of the second succeeding fiscal year. No payment to a State under this section shall be made out of its allotment for any fiscal year until its allotment for the preceding fiscal year has been exhausted or has ceased to be available.

(b) From the sums appropriated therefor and the allotments available under subsection (a) the Secretary of Labor shall from time to time certify to the Secretary of the Treasury the amounts to be paid to the States, and the Secretary of the Treasury shall, through the Division of Disbursement of the Treasury Department and prior to audit or settlement by the General Accounting Office, make payments of such amounts from such allotments at the time or times specified by the Secretary of Labor.

PART 4—VOCATIONAL REHABILITATION

SEC. 531. (a) In order to enable the United States to cooperate with the States and Hawaii in extending and strengthening their programs of vocational rehabilitation of the physically disabled, and to continue to carry out the provisions and purposes of the Act entitled "An Act to provide for the promotion of vocational rehabilitation of persons disabled in industry or otherwise and their return to civil employment", approved June 2, 1920, as amended (U. S. C., title 29, ch. 4; U. S. C., Supp. VII, title 29, secs. 31, 32, 34, 35, 37, 39, and 40), there is hereby authorized to be appropriated for the fiscal years ending June 30, 1936, and June 30, 1937, the sum of $841,000 for each such fiscal year in addition to the amount of the existing authorization, and for each fiscal year thereafter the sum of $1,938,000. Of the sums appropriated pursuant to such authorization for each fiscal year, $5,000 shall be apportioned to the Territory of Hawaii and the remainder shall be apportioned among the several States in the manner provided in such Act of June 2, 1920, as amended.

(b) For the administration of such Act of June 2, 1920, as amended, by the Federal agency authorized to administer it, there is hereby authorized to be appropriated for the fiscal years ending June 30, 1936, and June 30, 1937, the sum of $22,000 for each such fiscal year in addition to the amount of the existing authorization, and for each fiscal year thereafter the sum of $102,000.

PART 5—ADMINISTRATION

SEC. 541. (a) There is hereby authorized to be appropriated for the fiscal year ending June 30,

1936, the sum of $425,000, for all necessary expenses of the Children's Bureau in administering the provisions of this title, except section 531.

(b) The Children's Bureau shall make such studies and investigations as will promote the efficient administration of this title, except section 531.

(c) The Secretary of Labor shall include in his annual report to Congress a full account of the administration of this title, except section 531.

TITLE VI—PUBLIC HEALTH WORK

APPROPRIATION

SECTION 601. For the purpose of assisting States, counties, health districts, and other political subdivisions of the States in establishing and maintaining adequate public-health services, including the training of personnel for State and local health work, there is hereby authorized to be appropriated for each fiscal year, beginning with the fiscal year ending June 30, 1936, the sum of $8,000,000 to be used as hereinafter provided.

STATE AND LOCAL PUBLIC HEALTH SERVICES

SEC. 602. (a) The Surgeon General of the Public Health Service, with the approval of the Secretary of the Treasury, shall, at the beginning of each fiscal year, allot to the States the total of (1) the amount appropriated for such year pursuant to section 601; and (2) the amounts of the allotments under this section for the preceding fiscal year remaining unpaid to the States at the end of such fiscal year. The amounts of such allotments shall

be determined on the basis of (1) the population; (2) the special health problems; and (3) the financial needs; of the respective States. Upon making such allotments the Surgeon General of the Public Health Service shall certify the amounts thereof to the Secretary of the Treasury.

(b) The amount of an allotment to any State under subsection (a) for any fiscal year, remaining unpaid at the end of such fiscal year, shall be available for allotment to States under subsection (a) for the succeeding fiscal year, in addition to the amount appropriated for such year.

(c) Prior to the beginning of each quarter of the fiscal year, the Surgeon General of the Public Health Service shall, with the approval of the Secretary of the Treasury, determine in accordance with rules and regulations previously prescribed by such Surgeon General after consultation with a conference of the State and Territorial health authorities, the amount to be paid to each State for such quarter from the allotment to such State, and shall certify the amount so determined to the Secretary of the Treasury. Upon receipt of such certification, the Secretary of the Treasury shall, through the Division of Disbursement of the Treasury Department and prior to audit or settlement by the General Accounting Office, pay in accordance with such certification.

(d) The moneys so paid to any State shall be expended solely in carrying out the purposes specified in section 601, and in accordance with plans presented by the health authority of such State and approved by the Surgeon General of the Public Health Service.

INVESTIGATIONS

SEC. 603. (a) There is hereby authorized to be appropriated for each fiscal year, beginning with the fiscal year ending June 30, 1936, the sum of $2,000,000 for expenditure by the Public Health Service for investigation of disease and problems of sanitation (including the printing and binding of the findings of such investigations), and for the pay and allowances and traveling expenses of personnel of the Public Health Service, including commissioned officers, engaged in such investigations or detailed to cooperate with the health authorities of any State in carrying out the purposes specified in section 601: *Provided,* That no personnel of the Public Health Service shall be detailed to cooperate with the health authorities of any State except at the request of the proper authorities of such State.

(b) The personnel of the Public Health Service paid from any appropriation not made pursuant to subsection (a) may be detailed to assist in carrying out the purposes of this title. The appropriation from which they are paid shall be reimbursed from the appropriation made pursuant to subsection (a) to the extent of their salaries and allowances for services performed while so detailed.

(c) The Secretary of the Treasury shall include in his annual report to Congress a full account of the administration of this title.

TITLE VII—SOCIAL SECURITY BOARD

ESTABLISHMENT

SECTION 701. There is hereby established a Social Security Board (in this Act referred to as the

"Board") to be composed of three members to be appointed by the President, by and with the advice and consent of the Senate. During his term of membership on the Board, no member shall engage in any other business, vocation, or employment. not more than two of the members of the Board shall be members of the same political party. Each member shall receive a salary at the rate of $10,000 a year and shall hold office for a term of six years, except that (1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed, shall be appointed for the remainder of such term; and (2) the terms of office of the members first taking office after the date of the enactment of this Act shall expire, as designated by the President at the time of appointment, one at the end of two years, one at the end of four years, and one at the end of six years, after the date of the enactment of this Act. The President shall designate one of the members as the chairman of the Board.

DUTIES OF SOCIAL SECURITY BOARD

SEC. 702. The Board shall perform the duties imposed upon it by this Act and shall also have the duty of studying and making recommendations as to the most effective methods of providing economic security through social insurance, and as to legislation and matters of administrative policy concerning old-age pensions, unemployment compensation, accident compensation, and related subjects.

EXPENSES OF THE BOARD

SEC. 703. The Board is authorized to appoint and fix the compensation of such officers and employees, and to make such expenditures, as may be necessary for carrying out its functions under this Act. Appointments of attorneys and experts may be made without regard to the civil-service laws.

SEC. 704. The Board shall make a full report to Congress, at the beginning of each regular session, of the administration of the functions with which it is charged.

TITLE VIII—TAXES WITH RESPECT TO EMPLOYMENT

INCOME TAX ON EMPLOYEES

SECTION 801. In addition to other taxes, there shall be levied, collected, and paid upon the income of every individual a tax equal to the following percentages of the wages (as defined in section 811) received by him after December 31, 1936, with respect to employment (as defined in section 811) after such date:

(1) With respect to employment during the calendar years 1937, 1938, and 1939, the rate shall be 1 per centum.

(2) With respect to employment during the calendar years 1940, 1941, and 1942, the rate shall be 1½ per centum.

(3) With respect to employment during the calendar years 1943, 1944, and 1945, the rate shall be 2 per centum.

(4) With respect to employment during the calendar years 1946, 1947, and 1948, the rate shall be 2½ per centum.

(5) With respect to employment after December 31, 1948, the rate shall be 3 per centum.

DEDUCTION OF TAX FROM WAGES

SEC. 802. (a) The tax imposed by section 801 shall be collected by the employer of the taxpayer, by deducting the amount of the tax from the wages as and when paid. Every employer required so to deduct the tax is hereby made liable for the payment of such tax, and is hereby indemnified against the claims and demands of any person for the amount of any such payment made by such employer.

(b) If more or less than the correct amount of tax imposed by section 801 is paid with respect to any wage payment, then, under regulations made under this title, proper adjustments, with respect both to the tax and the amount to be deducted, shall be made, without interest, in connection with subsequent wage payments to the same individual by the same employer.

DEDUCTIBILITY FROM INCOME TAX

SEC. 803. For the purposes of the income tax imposed by Title I of the Revenue Act of 1934 or by any Act of Congress in substitution therefor, the tax imposed by section 801 shall not be allowed as a deduction to the taxpayer in computing his net income for the year in which such tax is deducted from his wages.

EXCISE TAX ON EMPLOYERS

SEC. 804. In addition to other taxes, every employer shall pay an excise tax, with respect to hav-

ing individuals in his employ, equal to the following percentages of the wages (as defined in section 811) paid by him after December 31, 1936, with respect to employment (as defined in section 811) after such date:

(1) With respect to employment during the calendar years 1937, 1938, and 1939, the rate shall be 1 per centum.

(2) With respect to employment during the calendar years 1940, 1941, and 1942, the rate shall be 1½ per centum.

(3) With respect to employment during the calendar years 1943, 1944, and 1945, the rate shall be 2 per centum.

(4) With respect to employment during the calendar years 1946, 1947, and 1948, the rate shall be 2½ per centum.

(5) With respect to employment after December 31, 1948, the rate shall be 3 per centum.

ADJUSTMENT OF EMPLOYERS' TAX

SEC. 805. If more or less than the correct amount of tax imposed by section 804 is paid with respect to any wage payment, then, under regulations made under this title, proper adjustments with respect to the tax shall be made, without interest, in connection with subsequent wage payments to the same individual by the same employer.

REFUNDS AND DEFICIENCIES

SEC. 806. If more or less than the correct amount of tax imposed by section 801 or 804 is paid or deducted with respect to any wage payment and the overpayment or underpayment of tax cannot

be adjusted under section 802 (b) or 805 the amount of the overpayment shall be refunded and the amount of the underpayment shall be collected, in such manner and at such times (subject to the statutes of limitations properly applicable thereto) as may be prescribed by regulations made under this title.

COLLECTION AND PAYMENT OF TAXES

SEC. 807. (a) The taxes imposed by this title shall be collected by the Bureau of Internal Revenue under the direction of the Secretary of the Treasury and shall be paid into the Treasury of the United States as internal-revenue collections. If the tax is not paid when due, there shall be added as part of the tax interest (except in the case of adjustments made in accordance with the provisions of sections 802 (b) and 805) at the rate of one-half of 1 per centum per month from the date the tax became due until paid.

(b) Such taxes shall be collected and paid in such manner, at such times, and under such conditions, not inconsistent with this title (either by making and filing returns, or by stamps, coupons, tickets, books, or other reasonable devices or methods necessary or helpful in securing a complete and proper collection and payment of the tax or in securing proper identification of the taxpayer), as may be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury.

(c) All provisions of law, including penalties, applicable with respect to any tax imposed by section 600 or section 800 of the Revenue Act of 1926, and the provisions of section 607 of the Revenue

Act of 1934, shall, insofar as applicable and not inconsistent with the provisions of this title, be applicable with respect to the taxes imposed by this title.

(d) In the payment of any tax under this title a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to 1 cent.

RULES AND REGULATIONS

SEC. 808. The Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall make and publish rules and regulations for the enforcement of this title.

SALE OF STAMPS BY POSTMASTERS

SEC. 809. The Commissioner of Internal Revenue shall furnish to the Postmaster General without prepayment a suitable quantity of stamps, coupons, tickets, books, or other devices prescribed by the Commissioner under section 807 for the collection or payment of any tax imposed by this title, to be distributed to, and kept on sale by, all post offices of the first and second classes, and such post offices of the third and fourth classes as (1) are located in county seats, or (2) are certified by the Secretary of the Treasury to the Postmaster General as necessary to the proper administration of this title. The Postmaster General may require each such postmaster to furnish bond in such increased amount as he may from time to time determine, and each such postmaster shall deposit the receipts from the sale of such stamps, coupons, tickets, books, or other devices, to the credit of,

and render accounts to, the Postmaster General at such times and in such form as the Postmaster General may by regulations prescribe. The Postmaster General shall at least once a month transfer to the Treasury as internal-revenue collection all receipts so deposited together with a statement of the additional expenditures in the District of Columbia and elsewhere incurred by the Post Office Department in performing the duties imposed upon said Department by this Act, and the Secretary of the Treasury is hereby authorized and directed to advance from time to time to the credit of the Post Office Department from appropriations made for the collection of the taxes imposed by this title, such sums as may be required for such additional expenditures incurred by the Post Office Department.

PENALTIES

SEC. 810. (a) Whoever buys, sells, offers for sale, uses, transfers, takes or gives in exchange, or pledges or gives in pledge, except as authorized in this title or in regulations made pursuant thereto, any stamp, coupon, ticket, book, or other device, prescribed by the Commissioner of Internal Revenue under section 807 for the collection of payment of any tax imposed by this title, shall be fined not more than $1,000 or imprisoned for not more than six months, or both.

(b) Whoever, with intent to defraud, alters, forges, makes, or counterfeits any stamp, coupon, ticket, book, or other device prescribed by the Commissioner of Internal Revenue under section 807 for the collection or payment of any tax imposed by this title, or uses, sells, lends, or has in his pos-

session any such altered, forged, or counterfeited stamp, coupon, ticket, book, or other device, or makes, uses, sells, or has in his possession any material in imitation of the material used in the manufacture of such stamp, coupon, ticket, book, or other device, shall be fined not more than $5,000 or imprisoned not more than five years, or both.

DEFINITIONS

SEC. 811. When used in this title—

(a) The term "wages" means all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash; except that such term shall not include that part of the remuneration which, after remuneration equal to $3,000 has been paid to an individual by an employer with respect to employment during any calendar year, is paid to such individual by such employer with respect to employment during such calendar year.

(b) The term "employment" means any service, of whatever nature, performed within the United States by an employee for his employer, except—

(1) Agricultural labor;

(2) Domestic service in a private home;

(3) Casual labor not in the course of the employer's trade or business;

(4) Service performed by an individual who has attained the age of sixty-five;

(5) Service performed as an officer or member of the crew of a vessel documented under the laws of the United States or of any foreign country;

(6) Service performed in the employ of the United States Government or of an instrumentality of the United States;

(7) Service performed in the employ of a State, a political subdivision thereof, or an instrumentality of one or more States or political subdivisions;

(8) Service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

TITLE IX—TAX ON EMPLOYERS OF EIGHT OR MORE

IMPOSITION OF TAX

SECTION 901. On and after January 1, 1936, every employer (as defined in section 907) shall pay for each calendar year an excise tax, with respect to having individuals in his employ, equal to the following percentages of the total wages (as defined in section 907) payable by him (regardless of the time of payment) with respect to employment (as defined in section 907) during such calendar year:

(1) With respect to employment during the calendar year 1936 the rate shall be 1 per centum;

(2) With respect to employment during the calendar year 1937 the rate shall be 2 per centum;

(3) With respect to employment after December 31, 1937, the rate shall be 3 per centum.

CREDIT AGAINST TAX

SEC. 902. The taxpayer may credit against the tax imposed by section 901 the amount of contributions, with respect to employment during the taxable year, paid by him (before the date of filing his return for the taxable year) into an unemployment fund under a State law. The total credit allowed to a taxpayer under this section for all contributions paid into unemployment funds with respect to employment during such taxable year shall not exceed 90 per centum of the tax against which it is credited, and credit shall be allowed only for contributions made under the laws of States certified for the taxable year as provided in section 903.

CERTIFICATION OF STATE LAWS

SEC. 903. (a) The Social Security Board shall approve any State law submitted to it, within thirty days of such submission, which it finds provides that—

(1) All compensation is to be paid through public employment offices in the State or such other agencies as the Board may approve;

(2) No compensation shall be payable with respect to any day of unemployment occurring within two years after the first day of the first period with respect to which contributions are required;

(3) All money received in the unemployment fund shall immediately upon such receipt be paid over to the Secretary of the Treasury to the credit of the Unemployment Trust Fund established by section 904;

(4) All money withdrawn from the Unemployment Trust Fund by the State agency shall be used solely in the payment of compensation, exclusive of expenses of administration;

(5) Compensation shall not be denied in such State to any otherwise eligible individual for refusing to accept new work under any of the following conditions: (A) If the position offered is vacant due directly to a strike, lockout, or other labor dispute; (B) if the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality; (C) if as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining any bona-fide labor organization;

(6) All the rights, privileges, or immunities conferred by such law or by acts done pursuant thereto shall exist subject to the power of the legislature to amend or repeal such law at any time.

The Board shall, upon approving such law, notify the Governor of the State of its approval.

(b) On December 31 in each taxable year the Board shall certify to the Secretary of the Treasury each State whose law it has previously approved, except that it shall not certify any State which, after reasonable notice and opportunity for hearing to the State agency, the Board finds has changed its law so that it no longer contains the provisions specified in subsection (a) or has with respect to such taxable year failed to comply substantially with any such provision.

(c) If, at any time during the taxable year, the Board has reason to believe that a State whose law it has previously approved, may not be certified under subsection (b), it shall promptly so notify the Governor of such State.

UNEMPLOYMENT TRUST FUND

SEC. 904. (a) There is hereby established in the Treasury of the United States a trust fund to be known as the Unemployment Trust Fund, hereinafter in this title called the Fund. The Secretary of the Treasury is authorized and directed to receive and hold in the Fund all moneys deposited therein by a State agency from a State unemployment fund. Such deposit may be made directly with the Secretary of the Treasury or with any Federal reserve bank or member bank of the Federal Reserve System designated by him for such purpose.

(b) It shall be the duty of the Secretary of the Treasury to invest such portion of the Fund as is not, in his judgment, required to meet current withdrawals. Such investment may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose such obligations may be acquired (1) on original issue at par, or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are hereby extended to authorize the issuance at par of special obligations exclusively to the Fund. Such special obligations shall bear interest at a rate equal to the average rate of interest,

computed as of the end of the calendar month next preceding the date of such issue, borne by all interest-bearing obligations of the United States then forming part of the public debt; except that where such average rate is not a multiple of one-eighth of 1 per centum, the rate of interest of such special obligations shall be the multiple of one-eighth of 1 per centum next lower than such average rate. Obligations other than such special obligations may be acquired for the Fund only on such terms as to provide an investment yield not less than the yield which would be required in the case of special obligations if issued to the Fund upon the date of such acquisition.

(c) Any obligations acquired by the Fund (except special obligations issued exclusively to the Fund) may be sold at the market price, and such special obligations may be redeemed at par plus accrued interest.

(d) The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to and form a part of the Fund.

(e) The Fund shall be invested as a single fund, but the Secretary of the Treasury shall maintain a separate book account for each State agency and shall credit quarterly on March 31, June 30, September 30, and December 31, of each year, to each account, on the basis of the average daily balance of such account, a proportionate part of the earnings of the Fund for the quarter ending on such date.

(f) The Secretary of the Treasury is authorized and directed to pay out of the Fund to any State agency such amount as it may duly requisition, not

exceeding the amount standing to the account of such State agency at the time of such payment.

ADMINISTRATION, REFUNDS, AND PENALTIES

SEC. 905. (a) The tax imposed by this title shall be collected by the Bureau of Internal Revenue under the direction of the Secretary of the Treasury and shall be paid into the Treasury of the United States as internal-revenue collections. If the tax is not paid when due, there shall be added as part of the tax interest at the rate of one-half of 1 per centum per month from the date the tax became due until paid.

(b) Not later than January 31, next following the close of the taxable year, each employer shall make a return of the tax under this title for such taxable year. Each such return shall be made under oath, shall be filed with the collector of internal revenue for the district in which is located the principal place of business of the employer, or, if he has no principal place of business in the United States, then with the collector at Baltimore, Maryland, and shall contain such information and be made in such manner as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may by regulations prescribe. All provisions of law (including penalties) applicable in respect of the taxes imposed by section 600 of the Revenue Act of 1926, shall, insofar as not inconsistent with this title, be applicable in respect of the tax imposed by this title. The Commissioner may extend the time for filing the return of the tax imposed by this title, under such rules and regulations as he may prescribe with the approval

of the Secretary of the Treasury, but no such extension shall be for more than sixty days.

(c) Returns filed under this title shall be open to inspection in the same manner, to the same extent, and subject to the same provisions of law, including penalties, as returns made under Title II of the Revenue Act of 1926.

(d) The taxpayer may elect to pay the tax in four equal installments instead of in a single payment, in which case the first installment shall be paid not later than the last day prescribed for the filing of returns, the second installment shall be paid on or before the last day of the third month, the third installment on or before the last day of the sixth month, and the fourth installment on or before the last day of the ninth month, after such last day. If the tax or any installment thereof is not paid on or before the last day of the period fixed for its payment, the whole amount of the tax unpaid shall be paid upon notice and demand from the collector.

(e) At the request of the taxpayer the time for payment of the tax or any installment thereof may be extended under regulations prescribed by the Commissioner with the approval of the Secretary of the Treasury, for a period not to exceed six months from the last day of the period prescribed for the payment of the tax or any installment thereof. The amount of the tax in respect of which any extension is granted shall be paid (with interest at the rate of one-half of 1 per centum per month) on or before the date of the expiration of the period of the extension.

(f) In the payment of any tax under this title a fractional part of a cent shall be disregarded un-

less it amounts to one-half cent or more, in which case it shall be increased to 1 cent.

INTERSTATE COMMERCE

SEC. 906. No person required under a State law to make payments to an unemployment fund shall be relieved from compliance therewith on the ground that he is engaged in interstate commerce, or that the State law does not distinguish between employees engaged in interstate commerce and those engaged in intrastate commerce.

DEFINITIONS

SEC. 907. When used in this title—

(a) The term "employer" does not include any person unless on each of some twenty days during the taxable year, each day being in a different calendar week, the total number of individuals who were in his employ for some portion of the day (whether or not at the same moment of time) was eight or more.

(b) The term "wages" means all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash.

(c) The term "employment" means any service, of whatever nature, performed within the United States by an employee for his employer, except—

(1) Agricultural labor;

(2) Domestic service in a private home;

(3) Service performed as an officer or member of a crew of a vessel on the navigable waters of the United States;

(4) Service performed by an individual in the employ of his son, daughter, or spouse, and service performed by a child under the age of

twenty-one in the employ of his father or mother;

(5) Service performed in the employ of the United States Government or of an instrumentality of the United States;

(6) Service performed in the employ of a State, a political subdivision thereof, or an instrumentality of one or more States or political subdivisions;

(7) Service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(d) The term "State agency" means any State officer, board, or other authority, designated under a State law to administer the unemployment fund in such State.

(e) The term "unemployment fund" means a special fund, established under a State law and administered by a State agency, for the payment of compensation.

(f) The term "contributions" means payments required by a State law to be made by an employer into an unemployment fund, to the extent that such payments are made by him without any part thereof being deducted or deductible from the wages of individuals in his employ.

(g) The term "compensation" means cash benefits payable to individuals with respect to their unemployment.

RULES AND REGULATIONS

SEC. 908. The Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall make and publish rules and regulations for the enforcement of this title, except sections 903, 904, and 910.

ALLOWANCE OF ADDITIONAL CREDIT

SEC. 909. (a) In addition to the credit allowed under section 902, a taxpayer may, subject to the conditions imposed by section 910, credit against the tax imposed by section 901 for any taxable year after the taxable year 1937, an amount, with respect to each State law, equal to the amount, if any, by which the contributions, with respect to employment in such taxable year, actually paid by the taxpayer under such law before the date of filing his return for such taxable year, is exceeded by whichever of the following is the lesser—

(1) The amount of contributions which he would have been required to pay under such law for such taxable year if he had been subject to the highest rate applicable from time to time throughout such year to any employer under such law; or

(2) Two and seven-tenths per centum of the wages payable by him with respect to employment with respect to which contributions for such year were required under such law.

(b) If the amount of the contributions actually so paid by the taxpayer is less than the amount which he should have paid under the State law, the additional credit under subsection (a) shall be reduced proportionately.

(c) The total credits allowed to a taxpayer under this title shall not exceed 90 per centum of the tax against which such credits are taken.

CONDITIONS OF ADDITIONAL CREDIT ALLOWANCE

SEC. 910. (a) A taxpayer shall be allowed the additional credit under section 909, with respect to his contribution rate under a State law being lower, for any taxable year, than that of another employer subject to such law, only if the Board finds that under such law—

(1) Such lower rate, with respect to contributions to a pooled fund, is permitted on the basis of not less than three years of compensation experience;

(2) Such lower rate, with respect to contributions to a guaranteed employment account, is permitted only when his guaranty of employment was fulfilled in the preceding calendar year, and such guaranteed employment account amounts to not less than 7½ per centum of the total wages payable by him, in accordance with such guaranty, with respect to employment in such State in the preceding calendar year;

(3) Such lower rate, with respect to contributions to a separate reserve account, is permitted only when (A) compensation has been payable from such account throughout the preceding calendar year, and (B) such account amounts to not less than five times the largest amount of compensation paid from such account within any one of the three preceding calendar years, and (C) such accounts amounts

to not less than 7½ per centum of the total wages payable by him (plus the total wages payable by any other employers who may be contributing to such account) with respect to employment in such State in the preceding calendar year.

(b) Such additional credit shall be reduced, if any contributions under such law are made by such taxpayer at a lower rate under conditions not fulfilling the requirements of subsection (a), by the amount bearing the same ratio to such additional credit as the amount of contributions made at such lower rate bears to the total of his contributions paid for such year under such law.

(c) As used in this section—

(1) The term "reserve account" means a separate account in an unemployment fund, with respect to an employer or group of employers, from which compensation is payable only with respect to the unemployment of individuals who were in the employ of such employer, or of one of the employers comprising the group.

(2) The term "pooled fund" means an unemployment fund or any part thereof in which all contributions are mingled and undivided, and from which compensation is payable to all eligible individuals, except that to individuals last employed by employers with respect to whom reserve accounts are maintained by the State agency, it is payable only when such accounts are exhausted.

(3) The term "guaranteed employment account" means a separate account, in an unem-

ployment fund, of contributions paid by an employer (or group of employers) who

(A) guarantees in advance thirty hours of wages for each of forty calendar weeks (or more, with one weekly hour deducted for each added week guaranteed) in twelve months, to all the individuals in his employ in one or more distinct establishments, except that any such individual's guaranty may commence after a probationary period (included within twelve or less consecutive calendar weeks), and

(B) gives security or assurance, satisfactory to the State agency, for the fulfillment of such guaranties,

from which account compensation shall be payable with respect to the unemployment of any such individual whose guaranty is not fulfilled or renewed and who is otherwise eligible for compensation under the State law.

(4) The term "year of compensation experience", as applied to an employer, means any calendar year throughout which compensation was payable with respect to any individual in his employ who became unemployed and was eligible for compensation.

TITLE X—GRANTS TO STATES FOR AID TO THE BLIND

APPROPRIATION

SECTION 1001. For the purpose of enabling each State to furnish financial assistance, as far as practicable under the conditions in such State, to needy individuals who are blind, there is hereby author-

ized to be appropriated for the fiscal year ending June 30, 1936, the sum of $3,000,000, and there is hereby authorized to be appropriated for each fiscal year thereafter a sum sufficient to carry out the purposes of this title. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Social Security Board, State plans for aid to the blind.

STATE PLANS FOR AID TO THE BLIND

SEC. 1002. (a) A State plan for aid to the blind must (1) provide that it shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them; (2) provide for financial participation by the State; (3) either provide for the establishment or designation of a single State agency to administer the plan, or provide for the establishment or designation of a single State agency to supervise the administration of the plan; (4) provide for granting to any individual, whose claim for aid is denied, an opportunity for a fair hearing before such State agency; (5) provide such methods of administration (other than those relating to selection, tenure of office, and compensation of personnel) as are found by the Board to be necessary for the efficient operation of the plan; (6) provide that the State agency will make such reports, in such form and containing such information, as the Board may from time to time require, and comply with such provisions as the Board may from time to time find necessary to assure the correctness and verification of such reports; and (7) provide that no aid will be fur-

nished any individual under the plan with respect to any period with respect to which he is receiving old-age assistance under the State plan approved under section 2 of this Act.

(b) The Board shall approve any plan which fulfills the conditions specified in subsection (a), except that it shall not approve any plan which imposes, as a condition of eligibility for aid to the blind under the plan—

(1) Any residence requirement which excludes any resident of the State who has resided therein five years during the nine years immediately preceding the application for aid and has resided therein continuously for one year immediately preceding the application; or

(2) Any citizenship requirement which excludes any citizen of the United States.

PAYMENT TO STATES

SEC. 1003. (a) From the sums appropriated therefor, the Secretary of the Treasury shall pay to each State which has an approved plan for aid to the blind, for each quarter, beginning with the quarter commencing July 1, 1935, (1) an amount, which shall be used exclusively as aid to the blind, equal to one-half of the total of the sums expended during such quarter as aid to the blind under the State plan with respect to each individual who is blind and is not an inmate of a public institution, not counting so much of such expenditure with respect to any individual for any month as exceeds $30, and (2) 5 per centum of such amount, which shall be used for paying the costs of administering

the State plan or for aid to the blind, or both, and for no other purpose.

(b) The method of computing and paying such amounts shall be as follows:

(1) The Board shall, prior to the beginning of each quarter, estimate the amount to be paid to the State for such quarter under the provisions of clause (1) of subsection (a), such estimate to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such clause, and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than one-half of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, (B) records showing the number of blind individuals in the State, and (C) such other investigation as the Board may find necessary.

(2) The Board shall then certify to the Secretary of the Treasury the amount so estimated by the Board, reduced or increased, as the case may be, by any sum by which it finds that its estimate for any prior quarter was greater or less than the amount which should have been paid to the State under clause (1) of subsection (a) for such quarter, except to the extent that such sum has been applied to make the amount certified for any prior quarter greater or less than the amount estimated by the Board for such prior quarter.

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(3) The Secretary of the Treasury shall thereupon, through the Division of Disbursement of the Treasury Department and prior to audit or settlement by the General Accounting Office, pay to the State, at the time or times fixed by the Board, the amount so certified, increased by 5 per centum.

OPERATION OF STATE PLANS

SEC. 1004. In the case of any State plan for aid to the blind which has been approved by the Board, if the Board, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of such plan, finds—

(1) that the plan has been so changed as to impose any residence or citizenship requirement prohibited by section 1002 (b), or that in the administration of the plan any such prohibited requirement is imposed, with the knowledge of such State agency, in a substantial number of cases; or

(2) that in the administration of the plan there is a failure to comply substantially with any provision required by section 1002 (a) to be included in the plan;

the Board shall notify such State agency that further payments will not be made to the State until the Board is satisfied that such prohibited requirement is no longer so imposed, and that there is no longer any such failure to comply. Until it is so satisfied it shall make no further certification to the Secretary of the Treasury with respect to such State.

ADMINISTRATION

SEC. 1005. There is hereby authorized to be appropriated for the fiscal year ending June 30, 1936, the sum of $30,000, for all necessary expenses of the Board in administering the provisions of this title.

DEFINITION

SEC. 1006. When used in this title the term "aid to the blind" means money payments to blind individuals.

TITLE XI—GENERAL PROVISIONS

DEFINITIONS

SECTION 1101. (a) When used in this Act—

(1) The term "State" (except when used in section 531) includes Alaska, Hawaii, and the District of Columbia.

(2) The term "United States" when used in a geographical sense means the States, Alaska, Hawaii, and the District of Columbia.

(3) The term "person" means an individual, a trust or estate, a partnership, or a corporation.

(4) The term "corporation" includes associations, joint-stock companies, and insurance companies.

(5) The term "shareholder" includes a member in an association, joint-stock company, or insurance company.

(6) The term "employee" includes an officer of a corporation.

(b) The terms "includes" and "including" when used in a definition contained in this Act shall not be deemed to exclude other things otherwise within the meaning of the term defined.

(c) Whenever under this Act or any Act of Congress, or under the law of any State, an employer is required or permitted to deduct any amount from the remuneration of an employee and to pay the amount deducted to the United States, a State, or any political subdivision thereof, then for the purposes of this Act the amount so deducted shall be considered to have been paid to the employee at the time of such deduction.

(d) Nothing in this Act shall be construed as authorizing any Federal official, agent, or representative, in carrying out any of the provisions of this Act, to take charge of any child over the objection of either of the parents of such child, or of the person standing in loco parentis to such child.

RULES AND REGULATIONS

SEC. 1102. The Secretary of the Treasury, the Secretary of Labor, and the Social Security Board, respectively, shall make and publish such rules and regulations, not inconsistent with this Act, as may be necessary to the efficient administration of the functions with which each is charged under this Act.

SEPARABILITY

SEC. 1103. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of the Act, and the application of such provision to other persons or circumstances shall not be affected thereby.

RESERVATION OF POWER

SEC. 1104. The right to alter, amend, or repeal any provision of this Act is hereby reserved to the Congress.

SHORT TITLE

SEC. 1105. This Act may be cited as the "Social Security Act."

Approved, August 14, 1935.

APPENDIX B

TABLE 1

Distribution of wealth and income in the United States, 1910[1]

Wealth-holding Class	Percentage distribution of the population	Percentage distribution of total incomes received by class	Average income per capita, entire United States
All classes	100	100	$332
Poorest	65	38.6	197
Lower Middle class	15	14.2	314
Upper Middle class	18	26.8	498
Richest	2	20.4	3,396

[1] Source: King, Willford I., "The Wealth and Income of the People of the United States," 1915, p. 235.

TABLE 2

Percentage Distribution of Personal Incomes, by Economic Classes, in 1918[1]

Income Class	Percentage Distribution[2]		Cumulative Percentage Distribution[2]	
	Number of Persons	Amount of Income	Number of Persons under Class above	Amount of Income under Class above
Total	100.0	100.0	.....	.....
Under zero	0.53	−0.22	0.53	−0.22
$0 to $1,000	38.22	18.12	38.75	17.90
$1,000 to $2,000	47.17	41.79	85.92	59.69
$2,000 to $3,000	8.16	12.62	94.08	72.31
$3,000 to $5,000	3.68	8.93	97.76	81.24
$5,000 and over	.....	.....	100.00	100.00

[1] Source: "Income in the United States, its Amount and Distribution 1909-1919," by the staff of the National Bureau of Economic Research, Inc., Vol. I, p. 137. (For detailed distribution see Table — in Appendix).

[2] Excluding 2,500,000 soldiers, sailors, and marines.

TABLE 3

Estimated distribution of national income among individual recipients, 1928 [1]

Income	Number of Individual Income Recipients	Total Income [2]	Average Income per Recipient
All Incomes	46, 704, 275	$84, 803, 658	$1, 816
Under $1,000	19, 014, 000	7, 463, 600	745
$1,000–$2,000	27, 542, 000	39, 468, 200	1, 433
$2,000–$3,000	6, 629, 000	15, 484, 300	2, 335
$3,000–$5,000	1, 397, 000	5, 210, 900	3, 730
$5,000 and over	1, 122, 275	17, 176, 698	15, 296

[1] Source: Data compiled by W. K. King, published in "The Ability to Pay for Medical Care", by Louis S. Reed, Committee on the Costs of Medical Care, 1933, p. 10; and Bader, Louis, "The American Family Income and Prosperity," *Journal of the American Statistical Association*, Vol. XXVIII, No. 182, pp. 303-311, June 1933, p. 303.

[2] From unpublished data by Williford I. King; Bader, loc. cit., p. 303. Total income excludes imputed income for value of services of durable goods such as homes, automobiles, etc.

TABLE 4

Cumulative percent Distribution of Income Recipients and Incomes in Specified Income Groups in 1928 [1]

Income Group	Cumulative Percentages	
	Number of Recipients	Income Received
Under $1,000	21.4	8.8
Under $2,000	80.4	55.8
Under $3,000	94.6	74.0
Under $5,000	97.6	80.1
$5,000 and over	100.0	100.0

[1] Source: Bader, Louis, loc. cit., p. 304.

TABLE 5

Estimated distribution of families according to amount of annual income, 1928 [1]

Income	Families		
	Number	Percent	Cumulative, percent
All incomes	29,000,000	100.0	
Under $1,000	4,060,000	14.0	14.0
$1,000–$1,200	2,117,000	7.3	21.3
$1,200–$1,400	2,610,000	9.0	30.3
$1,400–$1,600	2,784,000	9.6	39.9
$1,600–$1,800	2,407,000	8.3	48.2
$1,800–$2,000	2,059,000	7.1	55.3
$2,000–$2,500	3,712,000	12.8	68.1
$2,500–$3,000	2,523,000	8.7	76.8
$3,000–$4,000	3,074,000	10.6	87.4
$4,000–$5,000	986,000	3.4	90.8
$5,000–$10,000	1,885,000	6.5	97.3
$10,000 and over	783,000	2.7	100.0

[1] Source: Estimate by Maurice Leven for the Committee on the Costs of Medical Care, in "The Ability to Pay for Medical Care," loc. cit., pp. 11 and 99–101. "The families are 'census' families and include approximately 2,286,000 households of one person. In addition to the families distributed here, there were in 1928, approximately 6,400,000 gainful workers outside the family units as designated by the census."

TABLE 6

Estimated number of non-farm families by income classes, 1929 [1]

Income class	Families		
	Number	Percentage distribution	Cumulative, percent
All classes	21,674,000	100.0	
Under $1,000	2,735,000	12.62	12.63
$1,000 to $1,500	4,749,000	21.91	34.53
$1,500 to $2,000	4,094,000	18.89	53.42
$2,000 to $2,500	2,811,000	12.97	66.39
$2,500 to $3,000	1,767,000	8.15	74.54
$3,000 to $3,500	1,312,000	6.05	80.59
$3,500 to $4,000	898,000	4.14	84.73
Over $4,000	3,308,000	15.27	100.00

[1] Source: America's Capacity to Consume, 1934, p. 261.

TABLE 7

Unemployment in manufacturing, transportation, building trades, and mining, 1897–1926 [1]

Year	Percentage Unemployed	Year	Percentage unemployed	Year	Percentage Unemployed
1897	18.0	1907	6.9	1917	6.0
1898	16.9	1908	16.4	1918	5.5
1899	10.5	1909	8.9	1919	6.9
1900	10.0	1910	7.2	1920	7.2
1901	7.5	1911	9.4	1921	23.1
1902	6.8	1912	7.0	1922	18.3
1903	7.0	1913	8.2	1923	7.9
1904	10.1	1914	16.4	1924	12.0
1905	6.7	1915	15.5	1925	8.9
1906	5.9	1916	6.3	1926	7.5

[1] Source: Douglas, Paul H. and Director, Aaron, "The Problem of Unemployment," 1931, p. 28.

TABLE 8

Estimates of average percentages of nonagricultural unemployment, nationally and by States

State	Percent of Gainful Workers Unemployed				
	1930-33 average	1930	1931	1932	1933
United States	25.8	12.1	23.2	34.5	33.2
Alabama	23.2	10.4	20.2	33.9	29.1
Arizona	27.7	11.7	24.2	35.7	38.6
Arkansas	25.6	9.5	18.5	36.9	39.2
California	24.0	12.7	23.9	29.9	29.2
Colorado	25.1	11.7	20.7	32.8	35.3
Connecticut	26.4	12.0	24.3	37.5	31.7
Delaware	18.3	9.3	20.9	26.3	16.7
District of Columbia	13.2	5.8	12.7	19.1	15.0
Florida	27.1	12.2	23.0	36.4	36.6
Georgia	17.0	9.0	18.3	28.1	12.6
Idaho	21.8	10.5	19.0	29.3	28.5
Illinois	28.0	13.8	24.8	37.5	35.7
Indiana	26.6	12.3	23.6	37.3	33.4
Iowa	21.8	8.5	18.5	29.5	31.0
Kansas	21.0	9.3	19.9	28.0	26.9
Kentucky	20.8	11.7	20.8	28.4	22.7
Louisiana	24.1	11.2	22.3	32.5	30.6
Maine	21.8	12.0	23.4	31.6	20.3
Maryland	23.4	9.6	21.4	33.0	29.4
Massachusetts	27.0	13.2	24.7	35.0	34.8
Michigan	34.3	18.0	29.7	43.1	45.9
Minnesota	23.4	11.5	22.1	29.8	30.3
Mississippi	19.4	10.0	16.5	27.7	25.1

TABLE 8—Continued

Estimates of average percentages of nonagricultural unemployment, nationally and by States—Continued

State	Percent of Gainful Workers Unemployed				
	1930-33 average	1930	1931	1932	1933
Missouri	24.2	11.1	21.8	32.5	31.5
Montana	28.4	13.7	23.0	40.7	36.4
Nebraska	21.5	8.8	18.7	28.5	30.2
Nevada	27.8	13.5	26.2	35.7	35.4
New Hampshire	21.8	12.0	24.0	29.8	21.3
New Jersey	25.8	13.2	25.5	37.1	38.8
New Mexico	26.2	10.7	20.7	34.8	38.3
New York	27.8	12.4	24.0	36.4	38.1
North Carolina	21.3	11.8	22.6	32.3	18.4
North Dakota	18.9	9.4	17.8	21.8	27.3
Ohio	26.9	13.3	24.8	37.3	32.2
Oklahoma	24.2	11.2	23.3	33.2	28.2
Oregon	21.7	13.5	24.3	27.8	21.3
Pennsylvania	28.8	11.8	23.5	37.3	40.2
Rhode Island	29.7	15.3	27.0	39.4	36.6
South Carolina	17.2	8.6	18.3	29.3	12.9
South Dakota	17.5	7.0	16.6	23.9	22.7
Tennessee	20.4	9.8	19.7	29.8	22.6
Texas	24.0	10.2	21.4	32.8	31.6
Utah	25.7	11.8	22.7	33.9	34.3
Vermont	24.1	11.2	23.0	31.3	30.9
Virginia	21.1	9.2	19.4	30.7	25.6
Washington	24.4	12.1	23.1	31.4	30.7
West Virginia	23.2	10.1	21.3	32.0	29.4
Wisconsin	23.8	11.6	22.9	32.2	25.8
Wyoming	24.2	9.3	19.1	34.4	33.9

Source: Committee on Economic Security. See Report of the Committee to the President, Jan. 15, 1935, pp. 61, 62, table 6.

TABLE 9

Average wages in specified industries, 1929–1934[1]

Industrial attachment	1929	1930	1931	1932	1933	1934
Mining and quarrying	1,434	1,331	1,104	911	926	1,070
Manufacturing	1,209	1,213	1,083	879	882	980
Construction	1,764	1,709	1,532	1,149	1,108	1,193
Transportation [2]	1,637	1,592	1,520	1,311	1,298	1,368
Average, above industries	1,404	1,328	1,188	961	929	1,039

[1] Source: Martin, Robert F., National Income and its Elements, National Industrial Conference Board, Inc., 1936, p. 29.

[2] Includes only steam railroads, Pullman express, and water transportation.

TABLE 10

Year	Average number of persons unemployed [1]	Average annual wages and salaries, all industrial attachments [2]	Average annual sacrifice of wages and salary income	Total realized production income [3]	Ratio of wage and salary income sacrificed to total realized production income
			Millions of dollars	*Millions of dollars*	*Percent*
1929	1,813,000	$1,437	2,605	69,403	3.8
1930	4,921,000	1,389	6,835	62,334	11.0
1931	8,634,000	1,263	11,077	50,486	21.9
1932	12,803,000	1,106	14,160	37,349	37.9
1933	13,176,000	1,026	13,519	35,037	38.6
1934	11,382,000	1,066	12,133	39,540	30.7

[1] Nathan, Robert R., *Estimating Unemployment in the United States, 1929–1935* (in International Labour Review, January 1936, Vol. 33, No. 1, p. 49–73. Table following p. 80).

[2] Martin, Robert F., *National Income and Its Elements* (New York: National Industrial Conference Board, 1934, p. 28).

[3] Martin, Robert F., *National Income and Its Elements* (New York: National Industrial Conference Board, 1936, p. 13).

TABLE 11

Minimum budget for a self-supporting family consisting of father, mother, and three children aged 7, 10, and 13, respectively, Chicago, 1929 [1]

Item	Expenditures	
	Monthly	Annual
Rent (as necessary; allow $30 per month) [2]	$30.00	$360.00
Food	54.00	648.00
Clothing and toilet articles	24.20	290.40
Fuel	11.50	138.00
Household supplies and furniture	7.00	84.00
Carfare	4.67	56.04
Care of health	7.00	84.00
Savings and insurance	10.00	120.00
Education	3.00	36.00
Recreation	4.00	48.00
Organization and church dues	3.00	36.00
Incidental and emergency expenses (moving, accidents, loss of wages by illness and change of position, etc.)	4.00	48.00
Total	162.37	1,948.44
Total if rent is estimated at $35 per month	167.37	2,008.44

[1] Source: "The Chicago Standard Budget for Dependent Families", Chicago Council of Social Agencies, 1929, p. 49.

[2] This estimate is undoubtedly too low, since Chicago families in 1935–36, when rents were lower than in 1929, paid an average rent of $30.80 if they were in the $1,500 to $1,750 group and $34.20 if they were in the income group of $1,750 to $2,000. See "Incomes Received and Rents paid by Chicago Families", preliminary report released Feb. 23, 1937, by the U. S. Bureau of Labor Statistics.

TABLE 12

Minimum amount required for self-supporting family of five in Chicago in 1929 and corresponding amounts required in 1930–1935 based on Bureau of Labor Statistics cost-of-living index

Year	Bureau of Labor Statistics, cost-of-living index [1]	Amount required for self-supporting family of five in Chicago
1929	100.0	[1] $2,008
1930	97.7	1,954
1931	89.1	1,782
1932	80.5	1,610
1933	76.2	1,524
1934	78.9	1,578
1935	81.1	1,622

[1] "National Income in the United States 1929–1935", 1936, p. 44.

TABLE 13

Income and expenditures of 1,13¼ families in 11 New Hampshire Towns in 1935–36 [1]

Town	Number of families studied	Average number of members per economic family [2]	Average number of gainful workers per family [3]	Average income per family [4]	Average earnings of chief earner	Average current expenditures per family
Manchester	147	3.83	1.86	$1,405	$996	$1,399
Nashua	100	4.02	1.72	1,435	1,046	1,355
Concord	99	3.42	1.28	1,476	1,297	1,404
Berlin	100	4.08	1.24	1,137	1,039	1,119
Portsmouth	95	3.81	1.37	1,402	1,151	1,369
Keene	97	3.41	1.38	1,232	1,014	1,192
Dover	98	3.60	1.57	1,311	1,028	1,279
Laconia	100	3.46	1.41	1,299	1,101	1,253
Claremont	100	3.51	1.47	1,171	971	1,178
Littleton	99	3.47	1.44	1,145	945	1,128
Conway	99	3.77	1.38	1,242	1,115	1,199

[1] Source: "Money Disbursements of Wage Earners and Clerical Workers in 11 New Hampshire Communities." *Monthly Labor Review*, United States Department of Labor, Bureau of Labor Statistics, Vol. 42, No. 3, March 1936, p. 557, Table 1.

[2] Computed to represent the number of persons dependent on the family funds for a year. Persons who were part of the "economic family" for only part of a year were counted as a fraction of a member depending on the proportion of the year each was dependent on the family funds.

[3] Each person gainfully employed at any time of the year treated as one.

[4] Current income only. Does not include money used for current expenditures but derived from bank accounts or cash received before the schedule year, from the surrender of life insurance or endowment policies, from sale of properties, from repayment of loans made before the schedule year, or by increase in debt during the year.

TABLE 14

Income and expenditures of 721 white families in 3 southern cities, 1933–34 [1]

Item	Richmond	Birmingham	New Orleans
Number of families studied	198	202	321
Average number of members in economic family	3.78	3.67	3.80
Average number of gainful workers per family	1.57	1.38	1.34
Average income per family	$1,563	$1,440	$1,310
Average earnings of the chief earner	$1,253	$1,241	$1,109
Average current expenditures per family	$1,542	$1,461	$1,299

[1] Source: *Monthly Labor Review*, United States Department of Labor, Bureau of Labor Statistics, Vol. 42, No. 5, May 1936, p. 1460.

TABLE 15

Annual income and expenditure of wage-earning and clerical families in New York City, 1934–1936 [1]

Item	Number or amount
Population, 1930	6,930,446
Number of families studied	897
Average number of members in economic family	3.66
Average number of consumption units per family	3.38
Average number of gainful workers per family	1.62
Average net income per family	$1,743
Average earnings of chief earner	$1,357
Average current expenditure per family	$1,839

[1] Source: "Money Disbursements of Wage Earners and Lower-Salaried Clerical Workers in New York City," *Monthly Labor Review*, Vol. 44, No. 1, Jan. 1937, table 4.

TABLE 16

Amount of obligations incurred for emergency relief by sources of funds, continental United States, by months January 1933 through June 1936

[As reported to the Federal Emergency Relief Administration]

Years and months	Obligations incurred for emergency relief [1]						
	Total amount	Federal funds		State funds		Local funds	
		Amount	Per-cent	Amount	Per-cent	Amount	Per-cent
1933							
January	$60, 827, 161	$31, 175, 001	51.3	$8, 898, 289	14.6	$20, 753, 871	34.1
February	67, 375, 423	39, 850, 236	59.1	5, 921, 376	8.8	21, 603, 811	32.1
March	81, 205, 632	51, 355, 220	63.2	5, 212, 395	6.4	24, 638, 017	30.4
April	72, 954, 261	45, 337, 088	62.2	8, 182, 121	11.2	19, 435, 052	26.6
May	70, 806, 569	48, 801, 867	68.9	5, 016, 144	7.1	16, 988, 558	24.0
June	66, 338, 227	42, 463, 861	64.0	8, 041, 783	12.1	15, 832, 583	23.9
July	60, 094, 720	37, 502, 176	62.4	7, 576, 555	12.6	15, 015, 989	25.0
August	61, 467, 608	39, 821, 780	64.8	8, 726, 266	14.2	12, 919, 562	21.0
September	59, 337, 909	36, 328, 609	61.2	11, 091, 809	18.7	11, 917, 500	20.1
October	64, 905, 225	40, 370, 532	62.2	10, 208, 870	15.7	14, 325, 823	22.1
November [2]	70, 878, 048	39, 834, 747	56.2	16, 948, 693	23.9	14, 104, 608	19.9
December [2]	56, 597, 450	27, 841, 921	49.2	17, 440, 358	30.8	11, 315, 171	20.0
Total, 1933	792, 788, 233	480, 673, 029	60.6	113, 264, 659	14.3	198, 850, 845	25.1
1934							
January [2]	54, 109, 353	29, 271, 268	54.1	15, 311, 948	28.3	9, 526, 137	17.6
February [2]	57, 113, 515	25, 937, 850	45.4	21, 088, 098	36.9	10, 089, 570	17.7
March [2]	69, 637, 125	32, 347, 177	46.4	24, 906, 492	35.8	12, 384, 456	17.8
April	111, 691, 855	79, 825, 651	71.5	17, 073, 097	15.3	14, 793, 117	13.2
May	128, 807, 855	95, 368, 258	74.2	12, 657, 094	9.9	20, 482, 303	15.9
June	125, 400, 585	91, 496, 475	73.0	12, 088, 603	9.6	21, 815, 507	17.4
July	130, 909, 112	94, 864, 436	72.4	12, 649, 598	9.7	23, 395, 078	17.9
August	149, 151, 385	112, 843, 017	75.5	12, 101, 987	8.1	24, 506, 381	16.4
September	141, 613, 181	108, 273, 728	76.5	11, 320, 693	8.0	22, 018, 760	15.5
October	156, 220, 954	121, 554, 418	77.8	13, 514, 580	8.7	21, 151, 956	13.5
November	171, 942, 040	133, 358, 078	77.6	16, 747, 682	9.7	21, 836, 283	12.7
December	179, 495, 559	138, 572, 365	77.2	16, 120, 661	9.0	24, 802, 533	13.8
Total, 1934	1, 475, 792, 329	1, 063, 412, 718	72.1	185, 577, 530	12.6	226, 802, 081	15.3
1935							
January	196, 511, 394	151, 686, 026	77.3	19, 143, 071	9.7	25, 682, 297	13.0
February	180, 629, 533	141, 742, 737	78.5	16, 655, 453	9.2	22, 231, 343	12.3

[1] Includes obligations incurred for relief extended under the general relief program, under all special programs, and for administration; beginning April 1934 these figures also include purchases of materials, supplies and equipment, rentals of equipment (such as team and truck hire), earnings of nonrelief persons employed and other expenses incident to the Emergency Work Relief Program.

[2] Does not include Civil Works program expenditures.

TABLE 16—Continued

Amount of obligations incurred for emergency relief by sources of funds, etc.—Continued

Years and months	Obligations incurred for emergency relief						
	Total amount	Federal funds		State funds		Local funds	
		Amount	Percent	Amount	Percent	Amount	Percent
1935							
March	$188,459,179	$146,390,456	77.7	$18,551,341	9.8	$23,517,382	12.5
April	188,347,796	142,263,224	75.5	23,795,391	12.7	22,289,181	11.8
May	188,603,082	144,149,800	76.4	20,092,428	10.7	24,360,764	12.9
June	169,470,814	130,102,300	76.8	17,914,647	10.6	21,453,867	12.6
July [1]	160,632,125	123,595,408	76.9	15,237,033	9.5	21,799,684	13.6
August [1]	147,877,430	111,700,589	75.6	17,052,447	11.5	19,124,394	12.9
September [1]	121,196,453	89,226,014	73.6	15,771,438	13.0	16,199,001	13.4
October [1]	120,990,396	85,281,610	70.5	19,393,250	16.0	16,315,536	13.5
November [1]	95,278,790	63,410,999	66.6	16,743,641	17.6	15,124,150	15.8
December [1]	69,996,739	30,172,123	43.1	24,199,473	34.6	15,625,141	22.3
Total, 1935	1,827,993,731	1,359,921,378	74.4	224,549,613	12.3	243,522,740	13.3
1936							
January [2] [3]	59,600,000	10,400,000	17.4	31,200,000	52.4	18,000,000	30.2
February [2] [3]	56,000,000	4,600,000	8.2	31,600,000	56.4	19,800,000	35.4
March [2] [3]	52,900,000	3,100,000	5.9	30,700,000	58.0	19,100,000	36.1
April [2] [3]	47,800,000	3,100,000	6.5	26,800,000	56.1	17,900,000	37.4
May [2] [3]	41,800,000	2,400,000	5.8	23,000,000	55.0	16,400,000	39.2
June [2] [3]	39,600,000	1,700,000	4.3	22,600,000	57.1	15,300,000	38.6
Total, 6 months, 1936	297,700,000	25,300,000	8.5	165,900,000	55.7	106,500,000	35.8
Grand total, 42 months	4,394,274,293	2,929,307,125	66.7	689,291,802	15.7	775,675,366	17.7

[1] Does not include rural rehabilitation program expenditures (program transferred to the Resettlement Administration) nor college student aid expenditures (program not in operation in July and August; conducted by the National Youth Administration from September 1935 through June 1936).

[2] Partially estimated.

[3] Tentative estimate—not strictly comparable with data for months prior to January 1936 since data are not limited to emergency relief. See explanation in accompanying text and in Monthly Report of the Federal Emergency Relief Administration for February 1936, pp. 23-24.

Source: Federal Emergency Relief Administration.

TABLE 17

Amount of obligations incurred for emergency relief[1] by sources of funds, by States, January 1933 through December 1935

States	Obligations incurred for emergency relief						
	Total	Federal funds		State funds		Local funds	
		Amount	Percent	Amount	Percent	Amount	Percent
Alabama	$47,315,376	$44,762,571	94.6	$312,212	0.7	$2,243,593	4.7
Arizona	19,214,371	16,170,501	84.2	2,660,321	13.8	383,549	2.0
Arkansas	41,534,165	40,001,661	96.3	305,136	.8	1,217,368	2.9
California	235,096,613	158,041,750	67.2	38,209,480	16.3	38,845,383	16.5
Colorado	46,509,880	39,269,117	84.4	2,100,257	4.5	5,140,506	11.1
Connecticut	53,526,634	23,514,388	43.9	5,300,394	9.9	24,711,852	46.2
Delaware	5,194,435	2,103,468	40.5	2,107,942	40.6	983,025	18.9
District of Columbia	20,012,872	14,665,529	73.3	0	0	5,347,343	26.7
Florida	42,376,989	40,361,552	95.3	15,492	(2)	1,999,945	4.7
Georgia	47,730,325	44,793,264	93.8	5	(2)	2,937,056	6.2
Idaho	15,883,655	13,359,321	84.1	806,612	5.1	1,717,722	10.8
Illinois	308,672,762	232,791,591	75.4	62,119,849	20.1	13,761,322	4.5
Indiana	80,303,842	51,782,792	64.5	164,635	.2	28,356,415	35.3
Iowa	41,764,128	24,126,482	57.8	4,169,752	10.0	13,467,894	32.2
Kansas	54,747,935	39,949,245	73.0	470,877	.9	14,327,813	26.1
Kentucky	45,078,692	38,819,639	86.1	2,573,998	5.7	2,685,055	8.2
Louisiana	53,126,959	51,495,793	96.9	1,697	(2)	1,629,469	3.1
Maine	23,299,386	11,787,577	50.6	2,087,142	9.0	9,424,667	40.4
Maryland	45,916,020	33,349,321	72.6	10,127,288	22.1	2,439,411	5.3
Massachusetts	218,996,550	114,510,390	52.3	560,381	.3	103,925,779	47.4
Michigan	173,020,332	127,137,454	73.5	26,466,306	15.3	19,416,572	11.2
Minnesota	88,657,414	67,595,056	76.3	5,545,818	6.3	15,416,540	17.4
Mississippi	32,179,719	30,948,147	96.2	208,334	.6	1,023,238	3.2
Missouri	82,747,423	64,083,417	77.4	9,008,186	10.9	9,655,820	11.7
Montana	25,334,633	22,439,392	88.6	451,219	1.8	2,444,022	9.6
Nebraska	28,091,784	21,583,107	76.8	2,748	(2)	6,505,929	23.2
Nevada	5,724,742	5,074,574	88.6	130,489	2.3	519,679	9.1
New Hampshire	12,299,611	5,493,617	44.7	3,664,359	29.8	3,141,635	25.5
New Jersey	138,413,433	94,725,915	68.4	32,832,757	23.7	10,854,761	7.9
New Mexico	15,269,713	14,738,853	96.5	351,293	2.3	179,567	1.2
New York	726,684,294	385,601,208	53.1	125,445,319	17.2	215,637,767	29.7
North Carolina	39,557,112	38,402,296	96.8	0	0	1,254,816	3.2
North Dakota	28,902,104	24,856,991	86.3	41,938	.1	3,903,175	13.6
Ohio	219,473,200	170,540,527	77.8	33,017,460	15.0	15,915,213	7.2
Oklahoma	51,874,144	44,864,484	86.5	364,785	.7	6,644,875	12.8
Oregon	27,717,907	22,018,553	79.4	2,582,754	9.3	3,116,600	11.3

[1] Includes obligations incurred for relief extended under the general relief program, under all special programs, and for administration; beginning April 1934 these figures also include purchases of materials, supplies, and equipment, rental of equipment (such as team and truck hires), earnings of nonrelief persons employed, and other expenses incident to the Emergency Work Relief Program.

[2] Less than one-tenth of 1 percent.

TABLE 17.—Continued

Amount of obligations incurred for emergency relief by sources of funds, by States, January 1933 through December 1935—Continued

States	Obligations incurred for emergency relief						
	Total	Federal funds		State funds		Local funds	
		Amount	Percent	Amount	Percent	Amount	Percent
Pennsylvania	$446,355,327	$316,686,933	70.9	$104,69,5574	23.5	$24,972,820	5.6
Rhode Island	20,190,295	7,940,253	39.3	5,299,281	26.3	6,950,761	34.4
South Carolina	36,613,734	35,866,576	98.0	1,324	(1)	745,834	2.0
South Dakota	35,957,208	32,234,557	89.6	0	0	3,722,651	10.4
Tennessee	36,897,618	34,449,851	93.4	893,324	2.4	1,554,443	4.2
Texas	97,152,410	76,693,808	78.9	19,412,654	20.0	1,045,948	1.1
Utah	25,041,740	19,754,620	78.9	3,370,051	13.5	1,917,069	7.6
Vermont	6,013,946	3,406,100	56.6	39,845	.7	2,568,001	42.7
Virginia	26,361,447	23,779,324	90.2	34,452	.1	2,547,671	9.7
Washington	48,890,429	39,965,184	81.7	5,919,720	12.1	3,005,525	6.2
West Virginia	57,232,504	50,655,633	88.5	5,016,987	8.8	1,559,884	2.7
Wisconsin	109,901,020	79,669,888	72.5	4,234,316	3.8	25,996,816	23.7
Wyoming	7,724,461	7,044,855	91.2	267,039	3.5	412,567	5.3
Total, continental United States	4,096,574,293	2,904,007,125	70.9	523,391,802	12.8	669,175,366	16.3

[1] Less than one-tenth of 1 percent.

Source: Federal Emergency Relief Administration.

TABLE 18

Per capita income of employees, 1929–1935 [1]

Item	1929	1930	1931	1932	1933	1934	1935
All Employees, excluding work relief	$1,466	$1,427	$1,336	$1,178	$1,097	$1,143	$1,201
Salaried Employees (selected industries)[2]	2,560	2,542	2,410	2,125	2,028	2,019	2,080
Wage Earners (selected industries)[2]	1,404	1,326	1,188	961	929	1,024	1,117
Salaried Employees or Wage-earners (all other industries)	1,383	1,359	1,296	1,183	1,092	1,122	1,162

[1] Source: "National Income in the United States 1929-35," U. S. Bureau of Foreign and Domestic Commerce, 1936, p. 32.

[2] Includes mining, manufacturing, construction, steam railroads, Pullman railway express, and water transportation.

TABLE 19

Number of employees by occupational groups at each classified rate of salary or wage per week, in Ohio, 1929, data for 42,216 reporting establishments [1]

Rate of pay per week	Wage earners		Bookkeepers, stenographers, and office clerks		Sales people (not traveling)	
	Number	Percentage of total	Number	Percentage of total	Number	Percentage of total
Under $5	11,025	0.9	664	0.4	2,108	2.2
$5 but under $10	25,641	2.0	1,853	1.0	3,352	3.4
$10 but under $12	30,437	2.4	3,480	1.9	5,753	5.9
$12 but under $15	73,767	5.7	9,370	5.2	12,092	12.3
$15 but under $20	147,893	11.5	29,874	16.6	17,215	17.6
$20 but under $25	222,781	17.3	29,959	16.7	12,136	12.4
$25 but under $30	200,123	15.6	25,972	14.5	10,878	11.1
$30 but under $35	183,433	14.3	19,814	11.0	10,199	10.4
$35 but under $40	140,132	10.9	14,067	7.8	6,890	7.0
$40 but under $50	142,920	11.1	18,025	10.0	8,338	8.5
$50 or over	107,100	8.3	26,449	14.7	8,945	9.1
Total employees	1,285,252	100.0	179,527	100.0	97,896	100.0
Total wage or salary payments (thousand dollars)	1,492,141	.....	282,018	.....	119,084	.....
Average annual salary or wage (dollars)	1,161	.....	1,571	.....	1,216	.....

[1] Source: Analysis prepared by the National Industrial Conference Board, Inc., "National Income and its Elements," loc. cit., p. 20, from data in "Rates of Wages, Fluctuation of Employment, Wage and Salary Payments in Ohio, 1929," Industrial Commission of Ohio, Division of Labor Statistics, Report No. 26, Columbus, Ohio, 1930.

TABLE 20

Estimates of unemployment

[Thousands of persons]

	Robert Nathan	American Federation of Labor	Cleveland Trust Company	National Industrial Conference Board	National Research League	Alexander Hamilton Institute
1929						
January	2,631	3,060			4,430	4,257
February	2,913	3,119			4,200	4,263
March	2,860	2,560			3,845	3,970
April	2,217	2,043			2,695	3,701
May	1,817	1,754			2,070	3,568
June	1,520	1,447			1,805	3,447
July	1,042	1,214			1,580	3,358
August	649	1,064			1,195	3,034
September	907	614			915	2,941
October	492	910			1,240	3,027
November	1,853	1,949			2,400	3,667
December	2,831	2,629			3,500	4,053
1930						
January	4,065	3,919	2,839		4,990	5,398
February	4,424	4,286	3,293		5,160	5,822
March	4,644	4,323	3,447	3,338	5,080	5,958
April	4,386	4,049	3,188		4,640	6,015
May	4,299	3,756	3,315		4,250	6,200
June	4,161	3,906	3,681	3,177	4,530	6,645
July	4,196	4,441	4,138		4,940	7,389
August	4,782	4,919	4,633		5,065	7,876
September	5,040	4,963	4,518	5,433	5,140	7,831
October	5,481	5,525	4,911		5,560	8,055
November	6,507	6,293	5,799		6,720	8,656
December	6,956	6,841	5,732	7,090	7,825	8,996
1931						
January	8,049	8,169	8,111		9,480	10,182
February	8,334	8,274	8,354		9,565	10,453
March	8,280	8,123	8,301	7,839	9,235	10,443
April	8,075	7,815	8,059		8,820	10,264
May	8,024	7,811	7,982		8,550	10,353
June	8,026	7,894	8,186	7,747	8,860	10,610
July	7,971	8,367	8,672		9,375	11,123
August	8,434	8,760	9,090		9,045	11,407
September	8,743	8,846	8,964	9,319	9,425	11,454
October	9,138	9,484	9,396		10,015	11,749
November	9,925	10,410	10,212		10,285	12,266
December	10,614	10,889	9,999	11,010	11,835	12,480
1932						
January	11,462	11,926	11,798		13,340	13,680
February	11,934	12,168	12,714		13,480	13,940
March	12,389	12,387	13,468	12,622	13,689	14,089

TABLE 20—Continued

Estimates of unemployment—Continued

	Robert Nathan	American Federation of Labor	Cleveland Trust Company	National Industrial Conference Board	National Research League	Alexander Hamilton Institute
1932						
April	12,420	12,519	12,729	.....	13,835	14,521
May	12,837	13,004	13,080	.....	13,830	15,020
June	13,119	13,373	13,553	13,757	14,375	15,525
July	13,425	13,793	14,243	.....	14,790	16,077
August	13,608	13,968	14,378	.....	14,770	16,056
September	13,118	13,458	13,819	14,085	14,185	15,539
October	12,834	13,415	13,693	.....	14,230	15,268
November	13,204	13,925	14,119	.....	14,770	15,585
December	13,587	14,240	14,392	14,618	15,480	15,614
1933						
January	14,492	15,166	15,355	.....	16,820	16,549
February	14,597	15,319	15,585	.....	16,860	16,563
March	15,071	15,653	16,119	15,939	17,110	16,974
April	14,714	15,125	15,628	.....	16,430	16,586
May	14,341	14,615	15,337	.....	15,690	16,256
June	13,528	13,843	14,548	14,316	14,880	15,528
July	12,839	13,458	14,189	.....	14,200	14,920
August	12,111	12,662	13,251	.....	13,340	13,929
September	11,448	11,854	12,238	12,320	12,505	13,068
October	11,176	11,842	11,976	.....	12,410	12,966
November	11,738	12,374	12,391	.....	12,895	13,440
December	12,046	12,760	12,554	12,532	13,530	13,550
1934						
January	12,599	13,382	13,253	.....	14,790	14,304
February	12,072	12,964	12,744	.....	14,235	13,740
March	11,577	12,420	12,194	11,744	13,485	13,143
April	11,161	12,004	11,824	.....	12,905	12,876
May	10,897	11,711	11,330	.....	12,380	12,756
June	10,743	11,714	11,227	11,338	12,370	12,951
July	10,987	12,222	11,919	.....	12,930	13,457
August	11,382	12,362	12,117	.....	13,040	13,453
September	11,908	12,429	12,276	12,387	13,215	13,715
October	11,597	12,213	12,011	.....	12,920	13,294
November	11,996	12,581	12,391	.....	13,445	13,591
December	12,085	12,359	12,269	12,095	13,735	13,148
1935						
January	12,581	12,364	13,183	12,437	14,480	13,773
February	12,358	12,093	12,987	12,180	14,085	13,433
March	12,183	11,912	12,848	11,920	13,775	13,198
April	11,807	11,559	12,409	11,554	13,255	12,999
May	11,618	11,508	12,400	11,379	12,995	13,111
June	11,446	11,451	12,370	11,281	13,065	13,130
July	11,378	11,488	12,698	11,398	12,940	13,240

TABLE 20—Continued

Estimates of unemployment—Continued

	Robert Nathan	American Federation of Labor	Cleveland Trust Company	National Industrial Conference Board	National Research League	Alexander Hamilton Institute
1935						
August	11,103	11,193	12,428	11,378	12,575	13,005
September	10,915	10,734	11,998	11,106	12,140	12,537
October	10,606	10,480	11,671	10,672	12,080	12,149
November	10,738	10,669	11,899	10,754	12,455	12,235
December	10,640	10,719	11,700	10,243	13,035	11,763
1936						
January	11,687	11,666	12,900	10,777	14,235	12,717
February	11,379	11,577	12,930	10,558	14,155	12,641
March	11,140	11,199	12,602	10,549	13,530	12,345
April		10,536		10,286	12,720	11,925
May		10,275		10,015	12,170	11,812
June		10,140		9,769	12,035	11,761
July		10,102		9,672	11,980	11,718
August		9,747		9,405	11,565	11,427
September		9,217		8,975	11,140	
October		8,894				
November		9,032				

Sources: Nathan, Robert, *Estimates of Unemployment in the United States, 1929-1935*, International Labor Review, Vol. XXXIII, No. 1, January 1936. This publication carried the series no further than October, 1935. In Volume 80, *Congressional Record*, May 8, 1936, P. 7004, it is carried as far as March 1936; *The American Federationist*, February 1937, revising the figures for 1935 and 1936. The earlier figures are contained in *The American Federationist* for January 1936; Cleveland Trust Company, *Business Bulletin*, March 15, 1936. See also Volume 80 *Congressional Record*, May 8, 1936, page 7004; *Conference Board Bulletin* of November 13, 1936, *Conference Board Service Letter*, January 30, 1937 and February 27, 1937; National Research League, *Unemployment in the United States* (March 1935), further figures were given in monthly releases; Alexander Hamilton Institute, Information received by mail; see also *Business Conditions Weekly*, published by them.

APPENDIX C

THE TAX IS AN EXCISE AND THEREFORE NEED NOT BE APPORTIONED

Pursuant to Article I, Section 9, of the Constitution, direct taxes must be apportioned among the States in accordance with the census. See also Article I, Section 2. It is clear, however, that the present tax is an excise, and therefore not subject to the requirement of apportionment.

Section 901 imposes on every employer covered by the Act a tax *with respect to having individuals in his employ.* Whether it be regarded as a tax upon the receipt of services or upon the exercise of the privilege to employ, it is unquestionably an excise, supported not only by the decisions of this Court but by English revenue practice of long standing.

As early as 1777, prior to our Constitutional Convention, the British Parliament had imposed upon every master an annual excise of twenty-one shillings "for every male servant" employed as "maitre d'hotel, house-steward, master of the horse, groom of the chamber, valet de chambre, butler, under-butler, clerk of the kitchen, confectioner, cook, house-porter, footman, running-footman, coachman, groom, postillion, stable-boy, and the respective helpers in the stables of such coachman, groom, or postillion, or in the capacity of gardener (not being a day-labourer) park-keeper, game-keeper,

huntsman, whipper-in * * *". (Revenue Act of 1777, 17 George III, c. 39.) That statute, with some modifications as to rate and scope, but with no change as to general principle, served as the prototype for the Act of 1803 (43 Geo. III, c. 161); Act of 1812 (52 Geo. III, c. 93); Act of 1853 (16 and 17 Vict., c. 90); and the Act of 1869 (32 and 33 Vict., c. 14). See 24 Halsbury's Laws of England (First Edition), pp. 692 *et seq.* The 1869 Act is still on the statute books of England and furnishes a close analogy to the tax imposed by Title IX of the Social Security Act. The current practice of some of our States affords further support for treating this tax as an excise. *Gillum* v. *Johnson* (Supreme Court of California), 62 P. (2d) 1037 (not yet officially reported); *Beeland Wholesale Co.* v. *Kaufman* (Supreme Court of Alabama), decided March 17, 1937. Cf. *Mountain Timber Co.* v. *Washington,* 243 U. S. 219, 237, 244–245.

While it is perhaps difficult to extract from judicial pronouncement an exact and consistent definition of an excise, the numerous decisions of this Court have, merely through the process of inclusion and exclusion, marked out with a high degree of precision the boundaries of that concept. And an examination of those decisions permits no doubt that the tax herein lies well within those boundaries.

Viewed as an excise on the *receipt* of services, the tax finds cogent support in the excises on the receipt of property. *Knowlton* v. *Moore,* 178 U. S. 41; *Scholey* v. *Rew,* 23 Wall. 331. Or, if considered as a tax on the exercise of the privilege to employ, there is no doubt that it is an excise. The basic

privilege of merely engaging in business may be subjected to an excise. *Spreckels Sugar Refining Co.* v. *McClain,* 192 U. S. 397; *Sonzinsky* v. *United States,* No. 614, October Term, 1936, March 29, 1937. See Maguire, *Taxing the Exercise of Natural Rights,* in *Harvard Legal Essays* (1934), pp. 273–322. Similarly, a tax on the right to do business in a particular manner, as for example, in corporate form, is an excise and not a direct tax. *Flint* v. *Stone Tracy Co.,* 220 U. S. 107; *Stratton's Independence* v. *Howbert,* 231 U. S. 399; *Anderson* v. *Forty-two Broadway Co.,* 239 U. S. 69; *Railroad Co.* v. *Collector,* 100 U. S. 595. It follows without question that one of the incidents of the right to engage in business, namely, the right to employ, is an appropriate subject for an excise. In no sense can it be said that the tax is imposed because of general ownership of property. Cf. *Pollock* v. *Farmers' Loan & Trust Co.,* 157 U. S. 429, 158 U. S. 601.

Considered in their entirety,[1] the decisions of this Court on the excise question remove all doubt

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[1] Thus, in addition to the taxes considered above, the Court has sustained a tax on the use of carriages for the conveyance of persons (*Hylton* v. *United States*, 3 Dall. 171); a tax on the issuance of state bank notes (*Veazie Bank* v. *Fenno*, 8 Wall. 533); a tax on the selling of lottery tickets and liquor (*License Tax Cases*, 5 Wall. 462; *South Carolina* v. *United States*, 199 U. S. 437; *Ohio* v. *Helvering*, 292 U. S. 360; *United States* v. *Yuginovich*, 256 U. S. 450; *Wainer* v. *United States*, 299 U. S. 92); a tax on articles "manufactured, sold, or removed for sale" (*United States* v. *American Chicle Co.*, 256 U. S. 446); a tax on manufactured tobacco having reference to its origin and intended use (*Patton* v. *Brady*, 184 U. S. 608; *Liggett & Myers Tobacco Co.* v. *United States*, Nos. 161–163, 1936 Term, January 4, 1937; a tax

on the issue herein, and confirm the decisions of the Massachusetts Federal District Court as well as of the highest courts of Massachusetts, Alabama, and California sustaining this very tax. *Davis* v. *Boston & Maine R. R.*, 17 F. Supp. 97 (Mass.); *Howes Brothers Co.* v. *Massachusetts U. C. Commission*, (Supreme Judicial Court of Massachusetts), 5 N. E. (2d) 720 (not yet officially reported); *Beeland Wholesale Co.* v. *Kaufman* (Supreme Court of Alabama), decided March 17, 1937; *Gillum* v. *Johnson* (Supreme Court of California), 62 P. (2d) 1037 (not yet officially reported).

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on the sale or transfer of securities (*Provost* v. *United States*, 269 U. S. 443; *Thomas* v. *United States*, 192 U. S. 363; *Treat* v. *White*, 181 U. S. 264); a tax on sales at commodity exchanges (*Nicol* v. *Ames*, 173 U. S. 509; *duPont* v. *United States*, No. 332, 1936 Term, February 1, 1937); a tax on the manufacture and sale of oleomargarine (*McCray* v. *United States*, 195 U. S. 27); a tax on transfers at death (*New York Trust Co.* v. *Eisner*, 256 U. S. 345); a tax on transfers *inter vivos* (*Bromley* v. *McCaughn*, 280 U. S. 124); and a tax on the use of foreign-built yachts (*Billings* v. *United States*, 232 U. S. 261).

APPENDIX D

THE "ADDITIONAL CREDIT" PROVIDED FOR BY SECTION 909 DOES NOT AFFECT THE VALIDITY OF THIS TAX

In arguing in the main portion of this brief that the tax imposed by Section 901 is not repugnant to the Tenth Amendment, we have dealt with the tax itself and with the *normal* credit and the conditions attached thereto by Sections 902 and 903. In our opinion the normal credit is the only credit which requires analysis in the case at bar, since no other credit is available until 1938. However, out of an abundance of caution, we shall explain here the additional credit allowed by Sections 909 and 910, and demonstrate that it has no present bearing on the tax now imposed on the petitioner, that if it were presently relevant it would not be repugnant to the Constitution, and that even if the additional credit were unconstitutional, the remainder of the Title, including the tax, would not be affected thereby.

1. THE PURPOSE AND SCOPE OF THE ADDITIONAL CREDIT ALLOWED BY SECTIONS 909 AND 910

In order to understand the purpose and scope of Sections 909 and 910, it is necessary to have in mind the different types of unemployment compensation funds which it is conceivable that a State

might establish. So far as Congress was aware,[1] and so far as we are aware, there are only three main types of unemployment compensation funds, though the variations within, and combinations of, these types are numerous:

(1) The first type is a *pooled unemployment fund,* defined in Section 910 (c) (2), in which all contributions are commingled and from which payments of compensation are made to unemployed workmen without reference to the employer for whom they had worked.[2] In connection with such a fund, a State sometimes[3] provides that a separate bookkeeping account be kept for each employer, showing what he contributed and what his workmen drew, and further provides that those employers whose records merited such treatment should in the future contribute at an increased reduced rate. Such reduced rates are commonly called "merit ratings."

(2) The second type provides for separate *unemployment reserve accounts,*[4] defined in Section 910 (c) (1). Under such a system, each employer makes his contributions into a specially segregated

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[1] See Senate Report No. 628, p. 13.

[2] For example, Alabama, California, the District of Columbia, Louisiana, Massachusetts, Mississippi, New Hampshire, New York, Rhode Island, South Carolina, and Washington have laws providing for pooled unemployment funds.

[3] Of the States mentioned in the preceding footnote, all except New York enacted laws providing for merit ratings.

[4] For example, Wisconsin enacted laws providing for separate unemployment reserve accounts, and Indiana has a law providing for reserve accounts together with partial pooling.

account, and each workman when he becomes unemployed must look for compensation to the particular unemployment reserve account accumulated by his former employers. In connection with such a fund, a State ordinarily provides that after his account has accumulated to a certain point, and has shown an ability to withstand the drain of benefit payments, an employer shall in the future either not contribute, or contribute at an increased or reduced rate.

(3) A State might, in connection with,[5] or independently of, one of the two preceding plans, provide for *guaranteed employment accounts,* defined in Section 910 (c) (3). By this plan, an employer undertakes to give a certain minimum period of employment during the year to each of his employees, and at the same time contributes to an account or fund which can be drawn on by any of his employees as to whom the guaranty is not fulfilled or renewed. Such a plan provides that an employer who has fulfilled his guaranty in the past shall in the future either not contribute or contribute at an increased or reduced rate.

From the brief description just given it is plain that no matter what type of unemployment compensation system is established, a state law might have provisions whereby the contributions required of an individual employer would be fixed in proportion to the employer's proved experience in preventing unemployment among his workers. Such provisions have a uniform purpose: they are designed to furnish a separate classification for em-

[5] For example, California, Indiana, and Wisconsin have in connection with their unemployment compensation laws provided for guaranteed employment accounts.

ployers who reduce the volume of unemployment which otherwise must be borne by either the unemployment funds, state relief or federal relief.

In view of the inclusion of such provisions in state legislation, which was foreseen, and in view of the purpose of such inclusions, the rationale of Sections 909 and 910 becomes plain. Congress recognized that if it allowed as a credit against the tax imposed by Section 901 only the amounts actually paid into a state unemployment fund, it would destroy the significance of the classification established by the state law. The lower rate offered by the State to employers who had proved that their enterprises belonged in a different class would enure not to the benefit of the employer but to the benefit of the Federal Government. The employer would be no better off for his state merit rating since he would have a smaller amount to deduct from his federal tax. Sections 909 and 910 have been embodied in Title IX in order to increase freedom of state choice [*] and give significance to a classification based on an individual employer's proven success in reducing local and federal expenditures.

Section 909 (a) provides that "in addition to the credit allowed under section 902, a taxpayer may, * * * credit against the tax imposed by section 901 for any taxable year *after the taxable year 1937*, an amount * * * equal to the amount * * * by which the contributions * * * actually paid by the taxpayer * * * is exceeded by * * * (1) The amount of contributions which he would have been required to pay

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[*] See Senate Rept., No. 628, p. 13.

under such [State] law for such taxable year if he had been subject to the highest rate applicable from time to time throughout such year to any employer under such law."[7] [Italics supplied.]

Two sets of limitations, however, are imposed on this additional credit. First, under no circumstances can the taxpayer entirely escape paying at least part of the federal tax levied under Section 901: it is specifically provided that "the total credits allowed to a taxpayer under this title shall not exceed 90 per centum of the tax against which such credits are taken." Section 909 (c).

A second set of limitations is equally simple in objective, though, because of technical difficulties, the formulation of them in Section 910 is neces-

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[7] Section 909 (a) (2) applies only when an employer carries on business in 2 or more States; and in such a situation it is designed to avoid the use of Section 909 (a) (1) to secure credits which are unduly large and which discriminate against employers who operate in only a single State. A suppositious case will illustrate the rare situation Section 909 (a) (2) covers. Suppose in 1940 an employer, X, had one establishment in State A with a payroll of $100,000 annually, and another establishment in State B with a like payroll of $100,000. State A has no unemployment compensation law. State B has a law under which ordinary employers pay at the rate of 5%, but X, on account of his merit rating, pays at the rate of 1%, i. e., $1,000. Under Section 901, the federal tax is $3,000 for operations in each State, or a total of $6,000. Under Section 902 the taxpayer is entitled to a credit of $1,000. If it were not for Section 909 (a) (2), the operation of Section 909 (a) (1) would give him an additional credit of $4,000. However, Section 909 (a) (2) cuts the additional credit down to $1,700, thus preventing the taxpayer from using a state law applicable to operations in State B to reduce a tax levied on account of operations in State A.

sarily more complicated. These limitations are designed to make certain that the Federal Government does not reduce the tax on the basis of a state classification unless such state classification is in fact what it purports to be:[8] *i. e.*, a distinction based on tests indicating whether the reduced rate can safely be allowed without endangering the purpose of the law. There are only two such tests, experience and reserve. A given employer's experience indicates whether extensive unemployment is likely to occur among his employees. The amount of a reserve indicates whether, even if such unemployment should occur, the right of the employers to benefits is sufficiently protected. Section 910 (a) sets forth the appropriate tests in each case.

In the case of a pooled fund, the test of a reserve is inapplicable, since no separate reserve is maintained for individual employers. The sole available test is therefore that of experience, and clause (1) requires no more than that the reduced rate be based on three years of experience. In the case of a guaranteed employment account, the amount of reserve available is an adequate test,

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[8] The conditions embodied in Section 910 make certain that the additional credit will be allowed only when the State grants a reduction in contribution rate under circumstances that leave unimpaired the solvency and workability of the state unemployment compensation plan. To put it differently—Section 903 defines an unemployment compensation law, so that credits will be restricted to contributions to such a law and no other; similarly, Section 910 defines the conditions under which contribution rates may be reduced without destroying the character of the unemployment compensation law as such.

and the requirement that the account amount to 7½ percent of the wages payable in the preceding year is employed, in addition to the fulfillment of the guaranty in the preceding year. In the case of a separate reserve account, a similar condition is stated, plus an additional test that the reserve must also amount to not less than five times the largest amount of unemployment compensation paid within any of the three preceding years. This condition is appropriate only in the case of a separate reserve account, and not in the case of a guaranteed employment account, since guaranteed employment presupposes the payment of the guaranteed wages rather than of unemployment compensation, and the test of compensation previously paid is therefore not available.

2. THE ADDITIONAL CREDIT HAS NO PRESENT BEARING ON THE TAX NOW IN QUESTION

Although, for the convenience of the Court, we have explained the additional credit, we do not regard it as in issue in this case. It is undeniable that the additional credit cannot be taken except in connection with "the tax imposed by section 901 for any taxable year *after the taxable year 1937.*" [Italics supplied.] Section 909 (a).

Section 901 enumerates three different rates of tax: a one per cent tax "with respect to employment during the calendar year 1936"; a two per cent tax "with respect to employment during the calendar year 1937"; and a three per cent tax "with respect to employment after December 31, 1937." Congress was willing to allow an additional credit only during and after the third year,

when a high tax yield insured increased revenue. In imposing taxes for 1936 and 1937, when the rate was low, it permitted no such offset. Since the petitioner's complaint is limited to the 1936 tax, it has no concern with an additional credit available only in future years against future taxes which, if they are not entirely different, are, at least, at different rates. By the time the additional credit is available, this petitioner may not be in business.

Moreover, the petitioner cannot show that the additional credit will ever come into operation. Congress may repeal the additional credit provisions before their effective date. If in 1938 the provisions have not been repealed, none the less, there may not be a single State which will then have a law under which merit ratings are allowed. In 1938 there may not be a single taxpayer whose employment record entitles him to secure from a State a lower rate of unemployment contributions.

Under these circumstances, the consideration of the additional credit provisions is not alone premature, it is irrelevant to this tax and to these taxpayers. *Premier-Pabst Sales Co.* v. *Grosscup,* 298 U. S. 226; *Hatch* v. *Reardon,* 204 U. S. 152, 160, 161.

3. THE ADDITIONAL CREDIT, CONSIDERED ALONE OR IN CONNECTION WITH OTHER PROVISIONS OF TITLE IX, IS NOT REPUGNANT TO THE TENTH AMENDMENT

If Sections 909 and 910 are at issue in the case at bar, we contend that the additional credit, there offered, whether considered alone or in connection with other provisions of Title IX, is not repugnant to the Tenth Amendment and does not involve

penalties, economic coercion, or federal regulation of matters not within the power of Congress.

We have in the main brief pointed out the scope of the penalty doctrine and the doctrine of economic coercion: Congress cannot prescribe a detailed course of conduct in a field reserved to the States and then either punish departures from it or offer irresistible inducements to follow it. We have also pointed out that these doctrines did not apply to the tax or to the normal credit because under their combined operation a taxpayer could in no event reduce his out-of-pocket expenses or increase his receipts. While, by the additional credit a taxpayer may secure a reduction, though not a complete elimination,* of his financial burdens if his State has classified him as an employer whose past employment experience or whose present reserves justify a lower contribution rate, there are significant factors which make these doctrines inapplicable. In the first place, the reduction of the individual's financial burdens is primarily accomplished by the state law, and is merely acceded to or recognized by the federal law. Hence it cannot be said that any course of conduct has been prescribed by Congress, or that any federal regulation is involved.

Nor can it accurately be said that Congress has left the way open to the States to prescribe a

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* Section 909 (c) provides: "The total credits allowed to a taxpayer under this title shall not exceed 90 per centum of the tax against which such credits are taken." Thus, no matter what his merit rating, a person subject to the tax imposed by Section 901 will be required to increase the general revenues of the Treasury.

course of conduct which, if followed by the taxpayer, will *pari passu* reduce the tax. A State which provides for higher and lower contribution rates on the basis set forth in Section 910 in no true sense prescribes a course of conduct or offers a lower rate to one who complies with regulations. The State in establishing different rates draws a distinction based, not on the contemporaneous or future *conduct* of an employer, or on his contemporaneous or future *compliance* with a detailed pattern of conduct, but on the already proven or *established character of his enterprise.* If an employer has the sort of enterprise which in the past paid more in contributions than in benefits, or if an employer already has the sort of enterprise which is protected by a reserve account, he gets a lower rate. To recognize an already existing difference is not to penalize, nor to coerce, nor to regulate, but, as many cases teach us, to classify. *Mountain Timber Co.* v. *Washington,* 243 U. S. 219, 241–242; *Tax Commissioners* v. *Jackson,* 283 U. S. 527; *Fox* v. *Standard Oil Co.,* 294 U. S. 87; *Morf* v. *Bingaman,* 298 U. S. 407.[10]

[10] Of course, the fact that an employer's enterprise may, after its character has changed, become subject to a different rate does not show that it is being regulated rather than classified. A higher tax may be imposed on a store if it becomes part of a chain, *Tax Commissioners* v. *Jackson, supra;* or on an automobile if it becomes part of a caravan, *Morf* v. *Bingaman, supra.* Likewise a different rate may be given to an employer's enterprise if a record of experience shows that it pays more in contributions than its workers receive in benefits, or if it has accumulated a reserve. The new rate depends not on the employer's conduct but on the sort of enterprise he owns when the rate is fixed.

Recognition by the Federal Government of classifications established by state law is neither penal nor coercive. It is, as we have shown in the main body of our brief, supported by ample precedent.[11] Moreover, in the statute now under review such recognition has a particular merit, since it avoids a restriction on freedom of state policy. Unless the additional credit were allowed, a State could not effectively give the employer the benefit of a rating based on his past employment record. Indeed, it may be noted that the classification here

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[11] There is sound legislative precedent, never judicially impeached, for giving effect to state exemption policies in federal taxation by granting exemptions from the federal tax based upon state exemptions. In the Act of July 14, 1798, c. 75, 1 Stat. 597, Sec. 2, Congress levied and apportioned a direct tax on lands, dwelling houses, and slaves with a proviso "that no part of said tax shall be assessed upon such lands or dwelling houses and slaves as at the time of passing this act are especially exempted from taxes by the laws of the states, respectively." (See also Act of January 9, 1815, c. 21, 3 Stat. 164, Sec. 5; Act of August 5, 1861, c. 45, 12 Stat. 292, Sec. 8.) In the Act of January 18, 1815, c. 23, 3 Stat. 186, in which duties were imposed on household furniture and on gold and silver watches when kept for use, it was provided (3 Stat. 190, Sec. 14) "And be it further enacted, That the objects taxed as aforesaid which shall * * * be permanently or specially exempted from taxation, at the time of the passing of this act, by the laws of the state or territory wherein the same may be situate, shall be exempted from * * * the duties aforesaid."

The unquestioned validity of the last tax statute mentioned (3 Stat. 186) was referred to in *Knowlton* v. *Moore*, 178 U. S. 41 (footnote, pp. 94, 95), and *Patton* v. *Brady*, 184 U. S. 608.

The additional credits allowed by Section 909 are directly within the tradition of this legislative practice.

recognized serves a federal as well as a state purpose, since it allows a lower federal tax to one who by reducing unemployment, or by reason of a reserve account, lessens an otherwise probable drain on the Federal Treasury.

A final word should perhaps be added pointing out that the conditions set forth in Section 910 are not regulatory. The conditions do not in any way limit the States in allowing any reduction or differences in rate that may accord with local policy. The conditions merely make certain that, before a reduction allowed under state law is made the basis of an additional credit under federal law, the reduction is given on the basis either of the employer's past experience or on the basis of the reserve he has accumulated. Unless the state reduction were based on the basis of experience or reserve, the state law might not be a true unemployment compensation measure.

4. IF THE ADDITIONAL CREDITS ARE UNCONSTITUTIONAL, THE REMAINDER OF TITLE IX, INCLUDING THE TAX, IS NOT AFFECTED THEREBY

If, contrary to our view, the Court should conclude that the additional credits allowed by Sections 909 and 910 are here involved and are unconstitutional, we contend that the remainder of the Title, including the tax, is not affected thereby.

Section 1103 of the Social Security Act provides that:

> If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of the Act, and the application of such provision to other persons or circumstances shall not be affected thereby.

The presumption of separability which this quoted section furnishes is strongly supported by the order in which Title IX is arranged. First come Sections 901 to 908, inclusive, which in themselves constitute a complete enactment: Section 901 imposes the tax; Sections 902 to 904, inclusive, include provisions with respect to credit against the tax; Section 905 provides for administration; Section 906 grants to States a power to require contributions from persons engaged in interstate commerce; Section 907 lists a number of definitions applicable only to the preceding sections; and Section 908 authorizes government officials to make rules and regulations. It is only after all these provisions that Sections 909 and 910 are set forth as additional features. Section 910 includes its own set of definitions which are not applicable to anything other than the additional credit. Furthermore, as we have already pointed out, the additional credit is not to become operative until two years after the rest of the Title becomes operative. From all these evidences of intention, there can be no doubt that Congress intended the tax to stand even if the additional credit were held unconstitutional. Moreover, it is well settled that when an exemption from a tax which is not an essential part of the scheme is invalid, the exemption falls without affecting the remainder of the tax. *Utah Power & Light Co.* v. *Pfost,* 286 U. S. 165, 184–185; *Huntington* v. *Worthen,* 120 U. S. 97, 102; cf. *National Life Ins. Co.* v. *United States,* 277 U. S. 508, 522.

APPENDIX E

LIST OF STATE UNEMPLOYMENT COMPENSATION LAWS

State	Law
Alabama	Acts, 1935, Ch. 447, as amended by Acts 1935, chs. 156, 194 and 195
Arizona	Laws 1936 (Spec. Sess.) S. B. No. 3
Arkansas	Laws of 1937, Act No. 155 (H. B. 331)
California	Laws 1935, ch. 352
Colorado	Laws 1936 (3d Spec. Sess.) H. B. # 1
Connecticut	Laws 1936 (Sp. Sess.) Ch. 2
District of Columbia	Pub. No. 386, 74th Cong, as amended by Pub. No. 446 and Pub. No. 762
Georgia	Laws of 1937 (H. B. 185)
Idaho	Laws 1936 (3d Sp. Sess.) Ch. 12
Indiana	Laws 1936 (Sp. Sess.) Ch. 4
Iowa	Laws 1936 (Ex. Sess.) S. F. No. 1
Kansas	Laws of 1937 (H. B. 542)
Kentucky	Acts 1936 (4th Spec. Sess.) Ch. 1
Louisiana	Laws 1936, Act No. 97
Maine	Laws 1936 (Spec. Sess.) H. B. 1883, L. D. 938
Maryland	Laws 1936 (2nd Spec. Sess.) Ch. 1
Massachusetts	Laws 1935, c. 479 as amended by Laws 1936, cc. 12 and 249
Michigan	Pub. Acts 1936 (Ex. Sess.) Act No. 1
Minnesota	Laws 1936 (Ex. Sess.) Ch. 2
Mississippi	Laws 1936, ch. 176, as amended by laws 1936 (Spec. Sess.) Ch. 3
Montana	Laws of 1937 (H. B. No. 344)
Nevada	Laws of 1937 (A. 93)
New Hampshire	Laws 1935, ch. 99, as amended by Laws 1935, ch. 142 and Laws 1936, ch. 3
New Jersey	P. L. 1936, ch. 270
New Mexico	Laws 1936 (Spec. Sess.) Ch. 1
New York	Laws 1935, ch. 468, as amended by Laws 1936, chs. 117 and 697
North Carolina	Laws 1936 (Spec. Sess.) H. B. No. 1
North Dakota	Laws of 1937 (S. B. No. 62)
Ohio	Laws 1936 (Spec. Sess.) H. B. No. 608
Oklahoma	Laws 1936 (Ex. Sess.) H. B. No. 1
Oregon	Laws 1935 (Spec. Sess.) Ch. 70

LIST OF STATE UNEMPLOYMENT COMPENSATION LAWS—Continued

State	Law
Pennsylvania	Laws 1936 (2nd Ex. Sess.) Act No. 1
Rhode Island	P. L. 1936, Ch. 2333
South Carolina	Laws 1936, Act No. 768
South Dakota	Laws 1936 (Spec. Sess.) S. B. No. 1
Tennessee	Laws 1936 (Ex. Sess.) Ch. 1
Texas	Laws 1936 (3d Called Sess.) S. B. No. 5
Utah	Laws 1936 (Spec. Sess.) Ch. 1
Virginia	Acts 1936 (Ex. Sess.) Ch. 1
Vermont	Laws 1936 (Spec. Sess.) H. No. 1
West Virginia	Laws 1936 (2d Ex. Sess.) H. B. No. 1
Washington	Laws of 1937, Ch. 162 (S. B. 113)
Wisconsin	Laws 1931, Ch. 20, as amended by laws 1933, chs. 186 and 383 and laws 1935, chs. 192, 272 and 446
Wyoming	1937 Regular Sess. ch. 113 (H. B. 143)

U. S. GOVERNMENT PRINTING OFFICE: 1937

Tabular Representation of Main Features of State Unemployment Compensation Laws Now in Force

	Total	Ala.	Ariz.	Ark.	Cal.	Colo.	Conn.	D. C.	Ga.	Idaho	Ind.	Iowa	Kan.	Ky.	La.	Maine	Md.	Mass.	Mich.	Minn.	Miss.	Mont.	Nebr.	N. H.	N. J.	N. M.	N. Y.	N. C.	N. D.	Ohio	Okla.	Ore.	Penn.	R. I.	S. C.	S. D.	Tenn.	Tex.	Utah	Vt.	Va.	Wash.	W. Va.	Wisc.	Wyo.
1. Type of Fund:																																													
Straight Pooled	6																x										x						x												
Straight Pooled with Merit Rating Dependent upon Future Legislation	4															x					x						x						x											
Pooled with Merit Rating by Commission Classification	7	x						x	x									x				x	x																						
Pooled with Automatic Individual Merit Rating	20		x	x		x	x				x	x		x					x					x	x	x			x	x				x	x	x	x			x		x	
Pooled with Automatic Individual Merit Rating & Guaranteed Employment and Private Plans	2				x					x																																		
Pooled with Automatic Indiv. Merit Rating and Guaranteed Employment	1																			x																								
Pooled with Merit Rating by Com'n Classification & Elective Reserve	1																																						x					
Reserve with ½ Pooling	2													x																					x									
Reserve with ½ Pooling & Guaranteed Employment	1										x																																		
Reserve with Pool of ½ of 1% of Payroll	1																														x													
Reserve and Guaranteed Employment	1																																										x	
2. Size of Firm Covered:																																													
1 or more at any time	1							x																																				
1 or more at $50 per month for 3 months in same year	1																		x																										
1 or more in any 20 weeks	7			x						x										x		x	x									x												x
3 or more at any time	1																													x														
3 or more in any 20 weeks	1		x																																									
4 or more in any 13 weeks	2																							x			x																	
4 or more in any 20 weeks	4													x												x							x						x					
4 or more in any quarter having $500 payroll	1																														x													
5 or more (at same time) in any 20 weeks	1						x																																					
8 or more in any 15 weeks	1											x																																
8 or more in any 18 weeks	1																																										x	
8 or more in any 20 weeks	23	x			x	x			x		x		x		x	x	x	x			x				x			x	x		x			x	x	x	x		x	x	x	x		
3. Contributions:																																													
By employers	44	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x
By employees	9	x			x						x			x	x			x						x	x								x											
By state	1							x																																					
4. Excluded Employments:																																													
The State or Instrumentality thereof	41	x	x	x	x	x	x	x		x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x
Other State or U. S. or Instrumentalities thereof	41	x	x	x	x	x	x	x		x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x		x	x	x	x	x	x	x	x	x	x	x	x	x	x	x		x
Agricultural Labor	43	x	x	x	x	x	x	x		x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x
Domestic Service	43	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x		x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x
Maritime Service	39	x	x	x	x		x			x	x	x	x	x	x	x	x	x	x	x	x	x	x		x	x		x	x	x	x	x	x	x	x	x	x	x	x	x	x	x		x
Employment by Child or Spouse or of Minor by Parent	40	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x		x	x		x	x		x	x	x	x	x	x	x	x	x	x	x		x
Non-profit, Charitable, etc	43	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x		x	x	x	x	x	x	x	x	x	x	x	x	x	x
Covered by U. S. Unemp. Comp.	38		x	x	x	x	x		x	x	x	x	x	x	x	x	x		x	x	x	x	x	x	x	x		x	x		x	x		x	x	x	x	x	x	x	x	x	x	x
Insurance Agents	5	x												x																					x			x	x						
Casual	6							x	x		x							x												x		x												
Teacher or Officer in a Public or Private School or College	4								x															x						x													x	
5. Waiting Period:																																													
A. Period.																																													
3 Weeks within 52	8	x						x		x																				x		x	x						x			x	
2 weeks within 13	9		x			x	x						x								x													x			x				x			
2 Weeks within 13 but not more than 3 additional within next 52	9															x	x			x		x			x	x		x			x	x											
2 Weeks within 13 or 5 in any consecutive 65	8			x					x			x									x			x					x										x			x		x
3 successive weeks or 5 accumulated within 52	2																		x								x																	
8 miscellaneous periods	8				x						x			x	x			x						x																					
B. Week Used Above Means:																																													
Week of total unemployment	17		x	x	x	x				x				x	x				x		x	x			x		x					x		x				x					
Ditto or 2 weeks of partial	24	x					x	x	x		x	x	x			x	x	x					x				x	x		x	x		x		x	x		x	x	x	x			x
Miscellaneous	3																			x				x						x														
C. Laws Requiring Waiting Period for Partial Unemployment	26	x		x			x	x	x		x	x	x			x	x			x			x	x		x		x	x	x		x		x		x		x	x	x	x	x	x	x
6. Qualifying Period:																																													
26 Weeks Employment in 52 or 40 in 104	2									x																								x										
16 Times the Benefit Amount in first 3 of last 4 quarters	7	x		x					x													x	x						x							x							
16 Times the Benefit Amount in first 4 of last 5 quarters	13												x			x	x			x				x	x	x		x			x	x						x	x	x	x			
13 Weeks Employment in 52	7		x					x							x						x													x			x					x		
15 misc. Periods from 0 to 26 weeks in 52	15				x	x	x				x	x		x				x	x					x			x			x			x			x						x	x
Benefits:																																													

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